An outlook
THE FINANCE BILL 2016

JLN US & Co.
Chartered Accountants

M J Parsiya & Co.
Chartered Accountants

Maloo Bhatt & Co.
Chartered Accountants

Parikh Mehta & Associates
Chartered Accountants

Viral K Shah & Associates
Chartered Accountants

Important Definitions :

Gross Domestic Product (GDP) : Gross domestic product (GDP) is the market value of all officially recognized final goods and services produced within a country in a given period of time. GDP can be determined in three ways, all of which should, in principle, give the same result. They are the product (or output) approach, the income approach, and the expenditure approach.

The most direct of the three is the *product approach,* which sums the outputs of every class of enterprise to arrive at the total. The *expenditure approach* works on the principle that all of the product must be bought by somebody, therefore the value of the total product must be equal to people's total expenditures in buying things. The *income approach* works on the principle that the incomes of the productive factors ("producers," colloquially) must be equal to the value of their product, and determines GDP by finding the sum of all producers' incomes.

GDP Rate : The GDP Rate is the percentage increase or decrease of GDP from the previous measurement cycle, usually a year , half year or a quarter. The GDP growth rate is driven by the four components of GDP, viz., personal consumption, retail sales, Government spending, exports and imports. The GDP growth rate is the most important indicator of economic health.

Plan Expenditure: Government Expenditure is divided into Plan and Non-Plan expenditure. 'Plan' in this context indicates what is covered in the Five-Year Plan. It can be divided into revenue account and capital account - that is, simply, expenditure that gets consumed and one that creates some productive assets.

Non Plan Expenditure: Non-plan does not mean that the expenditure is unplanned. Non-Plan expenditure covers defence expenditure, interest payments and subsidies and grants to states, and basically all the stuff that needs to sustain the country.

Fiscal Deficit: The difference between total revenue and total expenditure of the government is termed as fiscal deficit. It is an indication of the total borrowings needed by the government. While calculating the total revenue, borrowings are not included. Generally fiscal deficit takes place due to either revenue deficit or a major hike in capital expenditure. Capital expenditure is incurred to create long-term assets such as factories, buildings and other development. A deficit is usually financed through borrowing from either the central bank of the country or raising money from capital markets by issuing different instruments like treasury bills and bonds.

Budgetary Deficit: Budgetary deficit is the difference between all receipts and expenditure of the government, both revenue and capital.

The fiscal deficit equals budgetary deficit plus government market borrowings and liabilities.

Revenue Deficit: Revenue deficit is an economic phenomenon, where the net amount received (revenues less expenditures) falls short of the projected net amount to be received. Revenue deficit arises when the government's actual net receipts is lower than the projected receipts.

Balance of Payment (BoP) : Balance of payments (BOP) sheet is an accounting record of all monetary transactions between a country and the rest of the world. These transactions include payments for the country's exports and imports of goods, services, and financial capital, as well as financial transfers. The BOP summarizes international transactions for a specific period, usually a year, and is prepared in a single currency, typically the domestic currency for the country concerned. Sources of funds for a nation, such as exports or the receipts of loans and investments, are recorded as positive or surplus items. Uses of funds, such as for imports or to invest in foreign countries, are recorded as negative or deficit items.

Balance of Trade(BoT): The balance of trade (or net exports, sometimes symbolized as NX) is the difference between the monetary value of exports and imports of output in an economy over a certain period. It is the relationship between a nation's imports and exports. A positive balance is known as a trade surplus if it consists of exporting more than is imported; a negative balance is referred to as a trade deficit or, informally, a trade gap. The balance of trade is sometimes divided into a goods and a services balance. Balance of trade is the largest component of a country's balance of payments.

An outlook

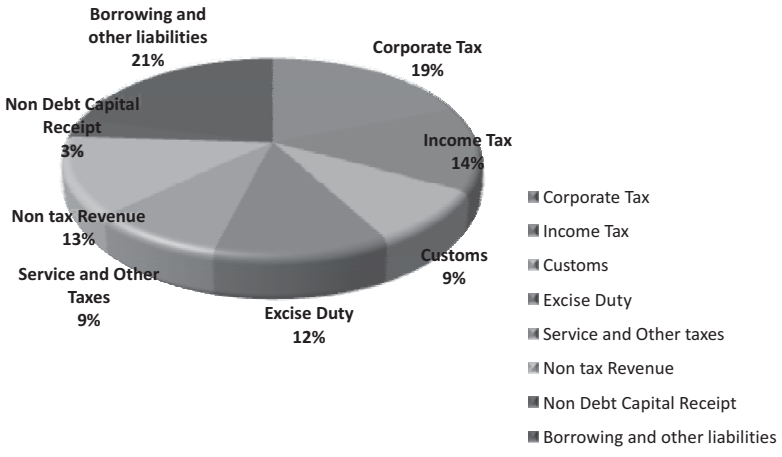
THE FINANCE BILL 2016

Budget on your palms

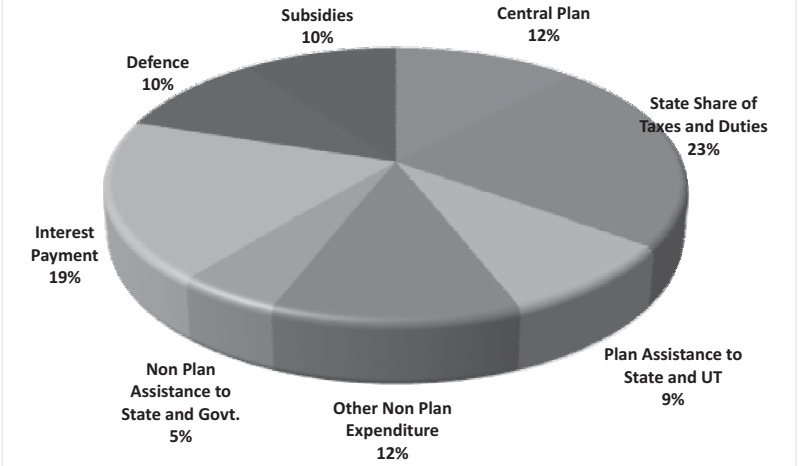
Global outlook – localized services

Budget Charts

RUPEE COMES FROM



RUPEE GOES TO



Preface

"An outlook- the Finance Bill 2016" is an effort to provide understanding of the Budget 2016 in form of handy booklet. With big investments in the rural sector and a break for small tax payers, the Hon'ble Finance Minister Mr.Arun Jaitley's Budget 2016 was largely pro-rural and pro-poor in an attempt to achieve all-inclusive growth of economy. FM in his third budget, took on both the fiscal and physical health of the nation by setting the fiscal deficit target for next year at 3.5 percent of GDP and promising to deal with tax evaders firmly.

"Prudence lies in adhering to fiscal targets," FM said Budget sets three priorities as: strengthening India's firewalls by ensuring macroeconomic stability and prudent fiscal management; driving growth through domestic demand; and reforms to boost economic opportunity. The government has done a fine balancing act and maintained its credibility by sticking to the Fiscal Responsibility and Budget Management (FRBM) Act-mandated target of bringing down fiscal deficit to 3.5% of GDP in fiscal 2017 after having met the 3.9% target for fiscal 2016. The odds are all too visible. The economy faces global headwinds even as domestic private investments are weak. There is a step-up in revenue expenditure on account of the Seventh Pay Commission (SPC) and One Rank One Pension (OROP) recommendations. The rural sector, too, is in need of a heavy booster dose after two successive monsoon failures and there is a need to push public expenditure higher. In such a scenario, treading the fiscal consolidation path and honouring the FRBM target may be a tad too ambitious and the likelihood of slippages in meeting the various targets cannot be wished away.

The Budget places strong emphasis on agriculture, rural economy, infrastructure and social sector. The resurgence and thrust on the PPP in infrastructure is most welcome. Budget lays down some very clear goalposts on farm income and on village electrification. Various initiatives that have been initiated by the government like Make in India, Skill India and Start Up India will move the economy in right direction. Further relaxation in ease of doing business is positive for industry and entrepreneurs.

Overall the budget proposals are in line with the development priorities of the nation. The Finance Minister has made a concerted effort to pump money into the rural economy and the infrastructure sector. This will yield dividends which will in turn lead to greater demand and employment generation over time. This is growth oriented Practical, Pragmatic and Progressive Budget which is excellent in long term perspective.

Some of the recommendations of the R.V. Easwar committee to simplify income-tax laws including rationalization of tax provisions were introduced. The Union budget sought to reform the country's taxation system and thereby improve the ease of doing business. Budget introduced several steps across direct and indirect taxes to reduce disputes, clarify existing laws and free up money locked in litigation. He offered a way out to end tax disputes arising from retrospective taxation of capital gains, presented the road map for phasing out corporate tax exemptions, announced a slew of measures to reduce tax disputes (especially in areas such as transfer pricing and indirect taxes), and deferred implementation of POEM (place of effective management) rules by another year.

The further amendments were made to crackdown the domestic and foreign black money reiterates the current Governments' commitment to curb black money.

This handy version of the Budget 2016 is an attempt to crystalize the provisions of the budget for the reader.

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9 Pillars of Economy

Tax

- Infrastructure and agriculture cess to be levied
- Excise duty raised from 10 to 15 per cent on tobacco products other than beedis
- 1 per cent service charge on purchase of luxury cars over Rs. 10 lakh and in-cash purchase of goods and services over Rs. 2 lakh
- SUVs, Luxury cars to be more expensive. 4% high capacity tax for SUVs
- Companies with revenue less than Rs 5 crore to be taxed at 29% plus surcharge
- Limited tax compliance window from Jun 1 - Sep 30 for declaring undisclosed income at 45% incl. surcharge and penalties
- Excise 1 per cent imposed on articles of jewellery, excluding silver
- 0.5 per cent Krishi Kalyan Cess to be levied on all services
- Pollution cess of 1 per cent on small petrol, LPG and CNG cars; 2.5 per cent on diesel cars of certain specifications; 4 per cent on higher-end models
- Dividend in excess of Rs. 10 lakh per annum to be taxed at additional 10 per cent

Personal Finance

- No changes have been made to existing income tax slabs
- Rs 1,000 crore allocated for new EPF (Employees' Provident Fund) scheme
- Govt. will pay EPF contribution of 8.33% for all new employees for first three years
- Deduction for rent paid will be raised from Rs 20,000 to Rs 60,000 to benefit those living in rented houses
- Additional exemption of Rs. 50,000 for housing loans up to Rs. 35 lakh, provided cost of house is not above Rs. 50 lakh
- Service tax exempted for housing construction of houses less than 60 sq. m
- 15 per cent surcharge on income above Rs. 1 crore

Social

- Rs. 38,500 crore for Mahtma Gandhi MGNREGA for 2016-17
- Swacch Bharat Abhiyan allocated Rs.9,500 crores.
- Hub to support SC/ST entrpreneurs
- Government is launching a new initiative to provide cooking gas to BPL families with state support.
- LPG connections to be provided under the name of women members of family: Rs 2000 crore allocated for 5 years for BPL families.
- 2.87 lakh crore grants to gram panchayats and municipalities - a quantum jump of 228%.
- 300 urban clusters to be set up under Shyama Prasad Mukherji Rurban Mission
- Four schemes for animal welfare.

Health

- 2.2 lakh renal patients added every year in India. Basic dialysis equipment gets some relief.
- A new health protection scheme for health cover upto 1 lakh per family.
- National Dialysis Service Prog with funds thru PPP mode to provide dialysis at all district hospitals.
- Senior citizens will get additional healthcare cover of Rs 30,000 under the new scheme
- PM Jan Aushadhi Yojana to be strengthened, 300 generic drug store to be opened

Education

- Scheme to get Rs.500 cr for promoting entrepreneurship among SC/ST
- 10 public and 10 private educational institutions to be made world-class.
- Digital repository for all school leaving certificates and diplomas. Rs. 1,000 crore for higher education financing.
- Rs. 1,700 crore for 1500 multi-skill development centres.

- 62 new navodaya vidyalayas to provide quality education
- Digital literacy scheme to be launched to cover 6 crore additional rural households
- Entrepreneurship training to be provided across schools, colleges and massive online courses.
- Objective to skill 1 crore youth in the next 3 years under the PM Kaushal Vikas Yojna - FM Jaitley
- National Skill Development Mission has imparted training to 76 lakh youth. 1500 Multi-skill training institutes to be set up.

Energy

- Rs. 3000 crore earmarked for nuclear power generation
- Govt drawing comprehensive plan to be implemented in next 15-20 years for exploiting nuclear energy
- Govt to provide incentive for deepwater gas exploration
- Deepwater gas new disc to get calibrated market freedom, pre-determined ceiling price based on landed price of alternate fuels.

Investments and infrastructure

- Rs. 27,000 crore to be spent on roadways
- 65 eligible habitats to be connected via 2.23 lakh kms of road. Current construction pace is 100 kms/day
- Shops to be given option to remain open all seven days in a week across markets.
- Rs. 55,000 crore for roads and highways. Total allocation for road construction, including PMGSY, - Rs 97,000 crore
- India's highest-ever production of motor vehicles was recorded in 2015
- Total outlay for infrastructure in Budget 2016 now stands at Rs. 2,21,246 crore
- New greenfield ports to be developed on east and west coasts
- Revival of underserved airports. Centre to Partner with States to revive small airports for regional connectivity
- 100 per cent FDI in marketing of food products produced and marketed in India
- Dept. of Disinvestment to be renamed as Dept. of Investment and Public Asset Management
- Govt will amend Motor Vehicle Act in passenger vehicle segment to allow innovation.
- MAT will be applicable for startups that qualify for 100 per cent tax exemption
- Direct tax proposals result in revenue loss of Rs.1060 crore, indirect tax proposals result in gain of Rs.20,670 crore

Agriculture

- Total allocation for agriculture and farmer welfare at Rs 35984 crores
- 28.5 lakh heactares of land wil be brought under irrigation.
- 5 lakh acres to be brought under organic farming over a three year period
- Rs 60,000 crore for recharging of ground water recharging as there is urgent need to focus on drought hit areas cluster development for water conservation.
- Dedicated irrigation fund in NABARD of Rs.20.000 cr
- Nominal premium and highest ever compensation in case of crop loss under the PM Fasal Bima Yojna.

Banking

- Banks get a big boost: Rs 25,000 crore towards recapitalisation of public sector banks. Jaitley says: Banking Board Bureau will be operationalised, we stand solidly behind public sector banks.
- Target of disbursement under MUDRA increased to 1,80,000 crore
- Process of transfer of government stake in IDBI Bank below 50% started
- General Insurance companies will be listed in the stock exchange
- Govt to increase ATMs, micro-ATMs in post offices in next three years

Income Tax

Rates of tax for the Assessment Year 2017-18 (Financial Year 2016-17)

Chart - 1 : Income Tax rates

Individual*

Net taxable income	All resident	Resident senior citizen	
	Individual, HUF, BOI, AOP	At the age of ≥ 60 & < 80	At the age of ≥ 80 and above
Up to Rs. 250000	Nil	Nil	Nil
Rs. 250001 to Rs. 300000	10%	Nil	Nil
Rs. 300001 to Rs. 500000	10%	10%	Nil
Rs. 500001 to Rs. 1000000	20%	20%	20%
Rs. 1000001 or above**	30%	30%	30%

Tax credit is given @ 100% of tax payable or Rs. 5,000/- whichever is less to resident individuals whose total income does not exceed Rs. 5 lacs.

Firm* [including Limited Liability Partnership (LLP), Local Authority]

Tax Rate: 30%

Co-operative Society*

Income	Rate
Up to Rs. 10000	10%
Rs. 10001 to Rs. 20000	20%
Above Rs. 20000**	30%

Alternate Minimum Tax for other than company is @18.5 %

Company*

Particulars	Domestic Company	Foreign Company
Taxable income up to Rs. 1 crore	30%	40%
Regular tax for companies whose total turnover or gross receipts in previous year 2014- 15 does not exceed INR 5 crores	29%	-
Regular tax for companies covered under section 115BA (Companies set up or incorporated after 1-03-2016 and subject to fulfillment of certain conditions)	25%	-
Taxable income above Rs. 1 crore** upto Rs.10 crores	30%	40%
Taxable income above Rs.10 crores**	30%	40%
Minimum Alternate Tax u/s 115JB**	18.5%	18.5%

*In all the above cases, Cess (Education & Secondary Education)@3% is applicable

** Surcharge :

For non-corporate assessees	:	1) Individual, HUF, BOI, AJP, and Local Authority @15% if Taxable Income exceeds Rs. 1 Crore. 2) Firms and Co-operative Society @12% if Taxable Income exceeds Rs. 1 Crore.
For domestic companies	:	@ 7% if Taxable Income exceeds Rs. 1 Crore upto Rs.10 Crores & @ 12% if Taxable Income exceeds Rs.10 Crores.
For foreign companies	:	@ 2% if Taxable Income exceeds Rs. 1 Crore upto Rs.10 Crores & @ 5% if Taxable Income exceeds Rs.10 Crores.

Long Term Capital Gain (LTCG) & Short Term Capital Gain (STCG)

Particulars	STCG		LTCG
	Listed securities	On assets other than listed securities	On assets other than listed securities
All assesses	15%	*** see note	20%

***note

Particulars	STCG on assets other than listed securities
Individual, HUF, BOI, AOP	As per slab
Partnership firm	30%
Domestic company	30%
Company other than domestic company	40%

Chart 2: Dividend Distribution Tax

Particulars	Rates (excluding Surcharge & Cess)			
	Domestic company	Money market mutual or liquid fund*	Other mutual fund	Securit-isation trust
Income distributed to individual /HUF	15%	25%	25%	25%
Income distributed to others	15%	30%	30%	30%
Withholding tax (CDT-Consideration Distribution Tax)on profits distributed by unlisted companied to shareholders through buyback of shares.	20%	N.A.	N.A.	N.A.

*Where any income is distributed by a mutual fund under an infrastructure debt fund scheme to a non-resident (not being a company) or a foreign company, the mutual fund shall be liable to pay additional income-tax at the rate of 5% on income

so distributed.

Note: Surcharge on Dividend Distribution Tax is 12%.

Exemptions

A) In respect of any income distributed :
   1) by the Administrator of specified undertaking, to the unit holders; or
   2) to a unit holder of an equity oriented fund in respect of any distribution made from such fund

B) In respect of any income distributed by the securitisation trust to any person in whose case income, irrespective of its nature and source, is not chargeable to tax under the Act.

C) Distribution made out of income of SPV to the REITs and INVITs having specified shareholding will not be subjected to Dividend Distribution Tax, in respect of dividend distributed after the specified date

Securities Transaction Tax

Particulars		Rate (%)
(i)	Delivery based purchase of units of an equity oriented fund entered into in a recognized stock exchange	Nil
(ii)	Delivery based sale of units of an equity oriented fund entered into in a recognized stock exchange	0.001
(iii)	Delivery based purchase or sale of Equity Shares/Unit of equity oriented fund (other than in [(i) & (ii)] above)	0.100
(iv)	Non Delivery based sale of Equity Shares/Units of equity oriented funds	0.025
(v)	(v) Sale of a unit of an equity oriented fund to the mutual fund	0.001
(vi)	Sale of an option in securities, where option is not exercised	0.05
(vii)	Sale of an option securities, where option is exercised	0.125
(viii)	Sale of a Future in securities	0.01

Commodities Transaction Tax

Particulars	Rate (%)
Non-agricultural commodities future contracts	0.1

Chart-3: Tax Deducted at Source (TDS) rates

Section	Nature of payments	Threshold limit	Individual, HUF	Company, Firm, Co-op Soc., Local Authority
			Rates in (%)	
192	Salary	As per slab	Normal Rate	N.A.
192A	Payment of accumulated balance due to an employee	50,000	10	N.A.
193	Interest on debentures Interest on Securities	5,000 10,000	10	10
194	Deemed dividend	2,500 (only in case shareholder is an individual, otherwise Nil)	10	10
194A	Interest from bank	10,000	10	10
194A	Other interest	5,000	10	10
194B	Winning from lotteries	10,000	30	30
194BB	Winning from horse races	10,000	30	30
194C	Payment to contractors, advertisers/ sub-contractors	30,000 (1,00,000 in year)	1	2
194D	Insurance commission	15,000	5	5
194DA	Payment in respect of Life Insurance Policy	-	1	-
194E	Payment to non – resident sportsmen or sport asso.	-	20	20
194EE	Payment in respect of NSS Deposits	-	10	10
194F	Repurchase of Units by MF/UTI	-	20	20
194G	Commission on sale of Lottery Tickets	15,000	5	5
194H	Commission/brokerage	15,000	5	5
194I	Rent-property	1,80,000	10	10
194I	Rent-plant / machinery	1,80,000	2	2
194IA	Consideration for transfer of an immovable property to residents (other than agricultural income)	49,99,999	1	1
194J	Professional fees	30,000	10	10

194LA	Compensation to resident on acquisition of immovable property	2,50,000	10	10
194LB	Interest paid to Non-resident by Notified Infrastructure Debt	-	5	5
194LC	Payment of interest to a non-resident (not being a company) by a specified company on borrowings	-	5	5
194LD	Income by way of interest on certain bonds & Government Securities on or after 01.06.2013 but before 01.06.2017.	-	5	5
195	Payment of other sums to a non-resident (Other than section 194LB)	Rate specified under Part II of First Schedule of The Bill, subject to DTAA		

Notes

- For Section 194C Rs. 30,000/- for single payment & Rs.1,00,000/- for aggregate Payment during a financial year.
- TDS is not applicable if PAN is provided By the Transporter (owning upto 10 trucks)
- TDS is attracted @20%, if PAN is not provided by the deductee subject to Section 206AA(7)

TAX COLLECTION AT SOURCE

Nature of transaction	Rates (in %)
Scrap	1
Tendu Leaves	5
Timber obtained by any mode and any other forest produce	2.5
Alcoholic liquor for human consumption and Indian made foreign liquor	1
Parking Plot, Toll Plaza, Mining and Quarrying	2
Bullion and Jewellery (if the sale consideration is paid in cash exceeding Rs.5 lacs in jewellery & Rs. 2 Lakhs in bullion)	1
Minerals being Coal, Lignite or Iron ore	1
Purchases of car worth more than Rs 10 Lakh	1
Cash Purchase of goods & services which are worth more than Rs 2 Lakh	1

Taxation of Individuals

Additional deduction of interest for first time home buyers:

In order to provide incentives to first time home buyers, it is proposed to provide additional deduction of Rs. 50,000 in respect of interest on loan taken for acquiring residential house property from any financial institution. To avail this incentive, the loan should be sanctioned during FY 2016-17, the property value should be less than Rs. 50 lakhs and the loan amount should not exceed Rs. 35 lakhs.

This deduction is over and above the limit of Rs. 200,000 in relation to a self-occupied property under section 24 of the Act.

Increase in time limit for claiming deduction of interest for house property.

Currently, the interest deduction on capital borrowed for the purpose of acquisition or construction of a self-occupied house property is allowed provided such acquisition or construction is completed within a period of 3 years.

It is proposed to increase this time limit from 3 years to 5 years.

Unrealized rent and arrears of rent :

It is proposed to rationalise certain provisions pertaining to unrealized rent and arrears of rent to bring uniformity in taxation of these items of income.

As per the proposal any amount of rent received in arrears or unrealized rent received subsequently shall be charged to tax in the FY in which it is received or realized, irrespective of whether the individual is still the owner of the property or not. It is also proposed that the 30% of the rent received or realized subsequently shall be allowed as a deduction.

The Memorandum states that this amendment will be applicable to both FY 2015-16 and FY 2016-17.

Rationalization of limit of deduction of House Rent Allowance (HRA) allowable in respect of rents paid under Section 80GG

The existing provisions of Section 80GG of the IT Act dealing with 'Deductions in respect of rent paid' provide for a deduction of any expenditure incurred by an individual in excess of 10% of his total income towards payment of rent in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence if he is not granted house rent allowance by his employer, to the extent such excess expenditure does not exceed two thousand rupees per month or 25% of his total income for the year, whichever is less, subject to other conditions as prescribed therein.

The said provision is proposed to be amended in order to provide relief to individual tax payers by raising the maximum limit of deduction of HRA from INR 2000/- to INR 5000/- per month.

Tax exemption on payment to employee from National Pension System Trust:

Any payment to an employee from his account under National Pension System Trust, either on closure or on the employee opting out of it, will now be regarded as exempt to the extent of 40% of the total amount so paid to the employee.

Tax exemption on payment to employee from Recognised Provident fund/Superannuation fund:

Under the earlier provisions, any payment to an employee from the accumulated

balance in his Recognised Provident Fund/ approved superannuation fund was exempt. It is now proposed to restrict this tax exemption to only 40% of the accumulated balance due and payable/annuity.

Employers' contribution in excess of Rs. 150,000 (earlier Rs. 100,000) to an approved superannuation fund is now chargeable as perquisite in hands of employee.

Sovereign Gold Bond Scheme:

Section 47 of the IT Act dealing with 'Transactions not regarded as transfer' is proposed to be amended to include 'Sovereign Gold Bond Scheme' within its scope (as Clause (viic)), the effect of which is to provide that any redemption of Sovereign Gold Bond under the Scheme, by an individual shall not be treated as transfer and therefore shall be exempt from tax on capital gains. Section 48 of the IT Act which deals with the 'Mode of computation' for the purpose of capital gains is also proposed to be amended (by substituting the third proviso) to provide indexation benefit to Sovereign Gold Bond.

Tax Treatment of Gold Monetization Scheme, 2015

Amendments are being proposed to ensure that the tax treatment under this scheme is akin to the tax treatment prevalent in respect of the Gold Deposit Scheme, 1999. Consequently the definition of the term 'capital asset' under section 2(14) of the IT Act is proposed to be amended to exclude Deposit Certificates issued under the Gold Monetization Scheme, 2015 from their purview. It is also proposed to amend section 10(15) of the IT Act so as to provide that the interest on Deposit Certificates issued under the Scheme, shall be exempt from income-tax.

These amendments are proposed to be made effective retrospectively from the 1st day of April, 2016 and shall accordingly apply in relation to AY 2016-17 and subsequent years.

Taxation in the hands of individuals/HUF on shares received on merger/demerger:

Under Section 56 of the IT Act dealing with 'Income from Other Sources', shares of a company received by an individual or Hindu Undivided family, as a consequence of demerger or amalgamation of a company is taxable whereas the same is not treated as a transfer if the recipient is a firm or company. With a view to bring uniformity in tax treatment, it is proposed to amend the IT Act so as to provide that any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not attract the provisions of Section 56(2)(vii) of the IT Act.

Tax Collection at Source [Section 206C] :

Section 206C amended with effect from June 01, 2016 - Tax at the rate of 1% to be collected at source by the seller on:

- Sale of motor vehicle of value exceeding INR 10 lakhs.
- Sale of any goods (other than bullion or jewellery) exceeding Rs. 2 lacs in cash
- Provision of services of value exceeding INR 2 lakhs (excluding services on which payment is subject to TD under Chapter XVII-B)
- Not applicable to certain class of buyers subject to fulfillment of prescribed conditions.

Introduction of Presumptive rate of taxation for persons having income from profession [Section 44ADA]

The Finance Bill 2016 has proposed to introduce Section 44ADA which provides for estimating the income of the assessee who is engaged in a profession referred to in Section 44AA (1) and whose total gross receipts do not exceed fifty lakh rupees in a previous year, at a sum equal to 50 % of the total gross receipts of the assessee in the previous year on account of such profession or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the assessee.

The above provision is applicable to the assessee who is engaged in medical, legal, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration.

This amendment shall come into force from April 01, 2017 and shall apply to residents who are individuals, HUF or a partnership firm. However, this provision shall not apply to a LLP.

Increase in the threshold limit for audit for persons having income from profession [Section 44AB]

The threshold limit of total gross receipts specified under Section 44AB for getting accounts audited by a person having income from profession is proposed to be increased from INR 25 lakhs to INR 50 lakhs.

This amendment shall come into force from April 01, 2017 and shall apply from AY 2017-18

Increase in the threshold limit for presumptive taxation scheme for persons having income from business [Section 44AD]

Section 44AD is proposed to be amended to increase the threshold limit for presumptive taxation scheme available to an eligible assessee doing an eligible business from INR 1 crore to INR 2 crore.

It is also proposed that the expenditure in the nature of salary, remuneration, interest etc. paid to the partner as per clause (b) of Section 40 shall not be deductible while computing the income under Section 44AD.

Further, it is also proposed that where an eligible assessee declares profit for any previous year in accordance with the provisions of this Section and he declares profit for any of the five consecutive assessment years relevant to the previous year succeeding such previous year not in accordance with the provisions of sub-section (1), he shall not be eligible to claim the benefit of the provisions of this section for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of sub-section (1).

Also it has been proposed that the eligible assessee shall be required to pay advance tax by March 15th of the financial year.

These amendments will take effect from April 01, 2017.

Tax on dividend income [Section 115BBDA]

By introducing Section 115BBDA income by way of dividend exceeding INR 10 lakhs received by individual, Hindu Undivided Family (HUF) or a firm residing in India from a domestic company is proposed to be taxed at the rate of 10%.

Amendment to be effective from April 01, 2017, applicable for assessment year

2017-18 onwards.

This proposal to tax dividend in the hands of individual/HUF/firm residing in India is part of long overdue rationalization measure as under the existing provisions dividend income was exempt in the hand of the shareholder provided the company declaring the dividend paid DDT at the lower tax rate of 15%. This created inequity between two class of tax payers viz. those with high dividend income were subjected only to 15% DDT whereas the very income would have been chargeable to tax at the rate of 30%.

Clarification regarding the definition of the term 'unlisted securities' [Section 112(1)(c) of the IT Act]

Section 112(1)(c)(iii) has been proposed to be amended to apply the beneficial tax rate to shares of companies in which public are not substantially interested. The provisions will be effective from April 01, 2017.

The reduced rate of taxation as applicable to non-residents was introduced by the Finance Act, 2012. The amendment applies to "unlisted securities", and the term "securities" means as defined under Securities Contract Regulations Act, 1956. The term securities includes "other marketable securities of a like nature". In terms of the Hon'ble Bombay High Court judgment in the case of **Dahiben Umedbhai Patel vs. Norman James Hamilton [1985] 57 COMP. CAS. 700 (BOM.)**, private limited company shares are not marketable and hence do not fall within the ambit of the term "Securities". Thus, a view was taken that the provisions of Section 112(1)(c)(iii) are not applicable to shares of a private limited company.

With the proposed amendment, the beneficial rate will be applicable to shares of private limited company which is a welcome measure and puts at rest the ambiguity raised in this behalf.

Individual Non Resident

Rupee Denominated Bond :

It is proposed to amend Section 48 of the IT Act to the effect that in case of Rupee denominated bonds, capital gains arising from appreciation of rupee between the date of issue and the date of redemption of such bond shall be exempt from tax.

Exemption from requirement of furnishing PAN under section 206AA to certain non-resident :

The existing provisions of Section 206AA requires a person who is entitled to receive any sum or income or amount on which tax is deductible under Chapter XVIIB of the IT Act to furnish his PAN to the person responsible for deducting such tax, failing which tax shall be deducted at the rate mentioned in the relevant provisions of the Act or at the rate in force or at the rate of 20%, whichever is higher.

The Finance Act 2016 proposes to amend the said section 206AA to provide that "the provisions of this section shall also not apply to a non-resident, not being a company, or to a foreign company, in respect of any other payment, **other than interest on bonds**, subject to such conditions as may be prescribed."

This amendment will take effect from June 01, 2016.

Corporate Taxation

Domestic Companies

Deduction in respect of provision for bad and doubtful debts in the case of Non-Banking Financial companies. [Section 36(1)] :

Section 36(1)(viia)(c) is proposed to be amended to provide for deduction from total income (computed before making any deduction under this clause and Chapter-VIA) on account of provision for bad and doubtful debts to the extent of 5% of the total income in the case of NBFCs.

Extension of scope of Section 43B of the IT Act to cover payments made to Indian Railways :

Section 43B is proposed to be amended to provide that any sums payable to Railways for the use of railway assets shall be allowed to be deducted as business income in a PY only if the same has been paid on or before the due date of filing of return for the relevant PY. Other-wise, the deduction will be available in the PY in which such sum is actually paid. The proposed amendment seeks to ensure timely payments of dues to the Railways for the use of railway assets.

Proposed amendment will be effective from April 01, 2017 and will apply in relation to AY 2017-18 and subsequent AYs.

Extending the benefit of initial additional depreciation for power sector [Section 32 (1)(iia) of the IT Act] :

The current benefit of additional depreciation of 20% in respect of new plant or machinery available to the companies engaged in the business of generation and distribution of power has also been extended to the companies engaged in the business of transmission of power.

This amendment will take effect from April 01, 2017 and will, accordingly, apply in relation to the AY 2017-18 and subsequent assessment years.

Tax incentive for employment generation [Section 80JJAA of the IT Act] :

With a view to extend employment generation incentive to all sectors, it is proposed that the deduction shall be available in respect of cost incurred on any employee whose total emoluments are less than or equal to INR 25 thousand per month. No deduction, however, shall be allowed in respect of cost incurred on those employees, for whom the entire contribution under Employees' Pension Scheme notified in accordance with Employees' Provident Fund and Miscellaneous Provisions Act, 1952, is paid by the Government.

It is further proposed to relax the norms for minimum number of days of employment in a financial year from 300 days to 240 days and also the condition of 10% increase in number of employees every year is proposed to be done away with so that any increase in the number of employees will be eligible for deduction under the provision. It is also proposed that in the first year of a new business, 30% of all emoluments paid or payable to the employees employed during the PY shall be allowed as deduction.

This amendment will take effect from April 01, 2017 and will accordingly apply in relation to AY 2017-18 and subsequent assessment years.

Taxation of Income from 'Patents' [Section 115BBF of the IT Act]:

With the objective of making India a global R&D hub, additional incentive is sought to be provided to companies to retain and commercialize existing patents and to develop new innovative patented products.

Accordingly, it is proposed that where the total income of the eligible assessee includes any income by way of royalty in respect of a patent developed and registered in India, such royalty shall be taxable at the rate of 10% (plus applicable surcharge and cess) on the gross amount of royalty. No expenditure or allowance in respect of such royalty income shall be allowed under the IT Act.

For the purpose of this concessional tax regime, an eligible assessee means a person resident in India, who is the true and first inventor of the invention and whose name is entered on the patent register as the patentee in accordance with Patents Act, 1970 and includes every such person, being the true and the first inventor of the invention, where more than one person is registered as a patentee under Patents Act, 1970 in respect of that patent.

This amendment will take effect from April 01, 2017 and will, accordingly, apply in relation to the AY 2017-18 and subsequent assessment years.

Tax on Distributed Income to Shareholder [Section 115QA] :

Effective from June 01, 2016, additional income tax on distributed income relaxed to cover buyback of unlisted shares as per applicable Company laws.

Rules to be framed for manner of determination of distributed income under various circumstances.

Vide this amendment, the earlier restriction on tax imposition on distributed income on buyback solely as per Section 77A of the Companies Act, 1956 has been withdrawn. The amendment is a positive step towards achieving clarity on issues relating to determination of consideration received by the Company at the time of issue of shares subsequently bought back.

Sunset clause for deductions allowed to specified units/enterprises/undertakings notified/revised:

Sr.	Section	Current Provisions	Proposed Amendment
1	10AA	Profit linked deductions for units in SEZ for profit derived from export of articles or things or services No deduction available to units commencing manufacture or production of article or thing or start providing services on or after April 01, 2020. (from PY 2020-21 onwards).	No deduction available to units commencing manufacture or productionof article or thing or start providing services on or after April 01, 2020. (from PY 2020-21 onwards).
2	35AC	Deduction for expenditure incurred by way of payment of any sum to a public sector company or a local authority or to an approved association or institution, etc. on certain eligible social development project or a scheme.	No deduction available w.e.f. April 01, 2017 (i.e. from PY 2017-18 and subsequent years)

3	80IA; 80IAB, and 80IB	100 % profit linked deductions for specified period on eligible business carried on by industrial undertakings or enterprises	No deduction available if the specified activity commences on or after April 01, 2017. (i.e from PY 2017-18 and subsequent years)
Restriction / Reduction in weighted deductions			
1*	35CCD	Weighted deduction of 150% on any expenditure incurred (not being expenditure in the nature of cost of any land or building) on any notified skill development project by a company.	Deduction shall be restricted to 100% from April 01, 2020 (i.e.from PY 2020-21 onwards).
2#	35(1)(ii)	Weighted deduction to the extent of 175% of any sum paid to an approved scientific research association including an approved university, college or other institution undertaking scientific research.	- Deduction to be restricted to 150% from April 01, 2017 to March 31, 2020 (i.e. from PY 2017-18 to PY 2019-20) and - Deduction to be restricted to 100 % from April 01, 2020 (i.e. from PY 2020-21 onwards).
3#	35(1)(iia)	Weighted deduction from the business income to the extent of 125% of any sum paid as contribution to an approved scientific research company.	Deduction shall be restricted to 100 % with effect from April 01, 2017 (i.e. from PY 2017-18 and subsequent years).
4#	35(1)(iii)	Weighted deduction to the extent of 125% of contribution to an approved research association or university or college or other institution to be used for research in social science or statistical research.	Deduction to be restricted to 100 % with effect from April 01, 2017 (i.e. from PY 2017-18 and subsequent years).
5#	35(2AA)	Weighted deduction to the extent of 200% of any sum paid to a National Laboratory or a university or an Indian Institute of Technology or a specified person for the purpose of approved scientific research programme.	- Deduction to be restricted to 150% from April 01, 2017 to March 31, 2020 (i.e. from PY 2017-18 to PY 2019-20). - Deduction to be restricted to 100% from April 01, 2020 (i.e. from PY 2020-21

			onwards).
6#	35(2AB)	Weighted deduction of 200% of the expenditure (not being expenditure in the nature of cost of any land or building) incurred by a company, engaged in the business of biotechnology or in the business of manufacture or production of any article or thing except some items appearing in the negative list specified in Schedule-XI, on scientific research on approved in-house research and development facility.	Deduction to be restricted to 150% from April 01, 2017 to March 31, 2020 (i.e. from PY 2017-18 to PY 2019-20). - Deduction to be restricted to 100 % from April 01, 2020 (i.e. from PY 2020-21 onwards).
7#	35AD	In case of a cold chain facility, warehousing facility for storage of agricultural produce, an affordable housing project, production of fertilizer and hospital weighted deduction of 150 % of capital expenditure (other than expenditure on land, goodwill and financial assets) is allowed.	In case of a cold chain facility, warehousing facility for storage of agricultural produce, hospital, an affordable housing project, production of fertilizer, deduction to be restricted to 100% of capital expenditure w.e.f. April 01, 2017 (i.e. from PY 2017-18 onwards).
8#	35CCC	Weighted deduction of 150 % of expenditure incurred on notified agricultural extensionproject	Deduction shall be restricted to 100 % from April 01, 2017 (i.e. from PY 2017-18 onwards).

Accelerated Depreciation – Restriction

Sr.	Section	Current Provisions	Proposed Amendment
1#	32 read with rule 5 of IT Rules	Accelerated depreciation (100% in respect of certain block of assets) is provided to certain Industrial sectors in order to give impetus for investment.	Accelerated depreciation (100% in respect of certain block of assets) is provided to certain Industrial sectors in order to give impetus for investment.

* These amendments will take effect from April 01, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

\# These amendments will take effect from April 01, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent years.

Amendment to Section 32AC :

The existing provision under Section 32AC(1A) provides for a condition that that the acquisition of the plant and machinery and its installation has to be done in the same previous year for claiming the benefit of investment allowance at the rate of 15% on investment made in new assets (plant and machinery) exceeding INR 25 crore.

This provision is proposed to be amended to provide that the acquisition of the plant & machinery of the specified

value has to be made in the previous year but installation may be made by March 31, 2017 in order to avail the benefit of investment allowance of 15%. It is further proposed to provide that where the installation of the new asset is in a year other than the year of acquisition, the deduction under this sub-section shall be allowed in the year in which the new asset is installed.

Foreign Company

Modification in conditions of special taxation regime for offshore funds under [Section 9A of the IT Act]:

Section 9A of the IT Act has been proposed to be amended to include an offshore fund which is established or incorporated or registered in a country or specified territory as may be notified by the Central Government. It has also been proposed to provide that the condition of fund not controlling and managing any business in India or from India shall be restricted only in the context of activities in India.

Exemption of Income for Foreign Company from Storage and Sale of Crude Oil Stored as Part of Strategic Reserves [Section 10 of the IT Act] :

For achieving tax neutrality for the benefit of private players including foreign national oil companies and multinational companies, it has been proposed (by inserting sub-section 48A) that any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India shall not be included in the total income if:

a) Such storage and sale by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; and

b) Having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf.

Clarification on applicability of MAT on foreign companies for the period prior to April 01, 2015 [Section 115JB of the IT Act]:

In view of the recommendations of the committee headed by Justice A.P Shah , it is proposed to amend the IT Act to provide that with effect from April 01, 2001, the provisions of section 115JB shall not be applicable to a foreign

company if –

(i) the assessee is a resident of a country or a specified territory with which India has an agreement referred to in sub-section (1) of section 90 or the Central Government has adopted any agreement under sub-section (1) of section 90A and the assessee does not have a permanent establishment in India in accordance with the provisions of such Agreement; or

(ii) the assessee is a resident of a country with which India does not have an

agreement of the nature referred to in clause (i) above and the assessee is not required to seek registration under any law for the time being in force relating to companies.

This amendment is proposed to be made effective retrospectively from April 01, 2001 and shall accordingly apply in relation to assessment year 2001-02 and subsequent years.

Rationalization of TDS provisions relating to payments made by Category I and II AIF to investors [Sections 194LBB and 197 of the IT Act]:

Section 194LBB of the IT Act is proposed to be amended to provide that the AIF required to deduct tax on payments to investor shall make such deduction at the following rates:

- Where the payee is a resident – 10%
- Where the payee is a non-resident or a foreign company – rates in force
- A corresponding amendment has also been made in Section 197 of the IT Act to include Section 194LBB in the list of Sections for which a lower / no TDS certificate can be obtained.

This amendment will be effective from June 01, 2016 and will apply from AY 2017-18.

Finance Act, 2015 had introduced a special taxation regime in respect of Category I and II AIF registered with SEBI, whereby such AIF were granted a pass through status and their income was made taxable in the hands of investor. In this regard, Section 194LBB of the IT Act had mandated a 10% TDS on income paid or credited by such AIF to investors. The said mandatory 10% TDS resulted into denial of lower / nil rate TDS to non-resident investors eligible under the relevant tax avoidance treaty. The present amendment is intended to set right this anomaly.

This amendment is a welcome step especially when the Government has taken a definitive step qua the regulatory regime by allowing foreign investments into Alternate Investment Funds. This amendment is in line with the provisions currently applicable to the REIT and Invit.

Enabling provision for implementation of various provisions of the IT Act in case of a foreign company held to be a resident in India [Sections 6 and 115JH of the IT Act]:

Section 6 of the IT Act was amended by the Finance Act, 2015 to provide that a company would be resident in India if its 'Place of effective management' is in India. The provisions have been proposed to be deferred by one year and shall take effect from April 01, 2017.

Section 115JH is proposed to be inserted in the IT Act, whereby subject to the conditions as may be notified by the Central Government, the provisions of this Act relating to computation of total income, treatment of unabsorbed depreciation, set off or carry forward and set off of losses, collection and recovery and special provisions relating to avoidance of tax shall apply with such exceptions, modifications and adaptations, as may be specified.

Every such notification shall be placed before each House of Parliament.

Schemes

The Income Declaration Scheme – 2016

The famous Voluntary Discloser Scheme 1998 (VDIS), is back in new avatar. Hon'ble Finance Minister has announced "The Income Declaration Scheme 2016" where in an opportunity is proposed to be provided to the persons who have not paid full taxes in past to come forward and disclose the undisclosed income. The salient features of the scheme are as follows:

- Proposed to be brought in to the effect from 1st June 2016 and will remain open up to the to be notified
- Applicable in respect of undisclosed income of any financial year up to 2015-16
- Total tax including surcharge and penalty in all to be charged @ 45 % of declared income (Tax rate 30% + Surcharge –Krishi Kalyan Cess 25% of tax + Penalty 25 % of tax)
- Fair market value of any assets shall be determined in the manner as prescribed in the rules to be notified
- No deduction in respect of any expenditure of allowance shall be allowed against the income declared
- Undisclosed income declared under the scheme shall not be included in the total income of declarant for any assessment year
- Undisclosed income declared will not affect the finality of completed assessments
- Payment of tax, interest and penalty to be made before notified date and non-payment shall make the declaration void
- Any amount of tax, surcharge, penalty paid under the scheme is nonrefundable
- Declaration made by misrepresentation or suppression of facts will be void
- Cases not eligible for scheme
  - Who have been served notices under Sec. 142(1), 143(2) or 148 or 153A or 153C
  - Where search or survey has been conducted
  - Where information is received under an agreement with foreign countries regarding such income
  - Cases covered under Black Money Act 2015
  - Persons notified under Special Court Act 1992
  - Cases covered under various criminal acts like IPC, NDPS, UAPA, POCA
- Reliefs and benefits available under the schemes are
  - Assets declared under the scheme will be exempt under Wealth Tax
  - No scrutiny or inquiry under Income tax Act and Wealth Tax Act
  - Immunity from prosecution under Income Tax Act and immunity from (Benami Transactions) Act, 1988

Dispute Resolution Scheme - 2016

Litigation is a scourge for a tax friendly regime and creates an environment of distrust in addition to increasing the compliance cost of the tax payers and administrative cost for the Government. There are about 3 lakh tax cases pending with the 1st Appellate Authority with disputed amount being 5.5 lakh crores. In order to reduce this number, the Hon'ble Finance Minister has proposed a new Dispute Resolution Scheme (DRS).

The salient features of the proposed scheme are as under :

- The scheme is applicable to "tax arrear" which is defined as the amount of tax, interest and penalty in respect of which appeal is pending before the Commissioner Income tax (Appeal) as on 29th February 2016
- Tax at the applicable rate and interest upto the date of assessment is payable
- In case of disputed tax upto Rs. 10 lacs, penalty is not leviable
- In case of disputed tax exceeding 10 lacs, penalty to be paid @ 25 % of tax payable
- In case of pending appeal against penalty orders, penalty to be paid @ 25 % of the tax paid / payable
- The scheme is also applicable to the persons aggrieved on account of amendment made in the act retrospectively. For availing the benefit under the scheme, applicant shall withdraw any writ petition or appeal field against such specified tax before the Commissioner (Appeals) or Tribunal, High Court, or Supreme Court as the case may be and shall also be required to furnish a proof of such withdrawal
- The declaration under the scheme may be made to designated authority not below the rank of Commissioner
- The designated authority shall within sixty days from the date of receipt of the declaration, determine the payable by the declarant
- The declarant shall pay such sum within thirty days of the passing the order and furnishing proof of payment of sum.
- Any such amount paid, not be refunded
- Immunity from prosecution under Income Tax Act
- The scheme is not eligible to the following cases
  - Cases where prosecution has been initiated before 29.2.2016
  - Search or Survey cases where the declaration is in respect of tax arrears
  - Cases relating to undisclosed foreign income and assets
  - Cases based on information under DTAA under Sec. 90 or 90Aof the act where the declaration is in respect of tax arrears
  - Person notified under Special Courts Act,1992
  - Cases covered under various criminal acts like IPC, NDPS, UAPA, POCA

Administrate Measures

Legislative Framework to administrative jurisdiction :

Assumption of jurisdiction of Assessing Officer :

Section 124(3) of the IT Act is proposed to be amended to specifically provide that in cases where search is initiated under Section 132 or books or accounts, other documents or any assets are requisitioned under section 132A, no person shall be entitled to question the Jurisdiction of an AO after the expiry of one month from the date on which he was served with a notice under Section 153A(1) or Section 153C(2) or after the completion of the Assessment, whichever is earlier.

This amendment will take effect from the June 01, 2016.

Belated return can be revised :

In Sec. 139 of the Income tax act, for sub section (4), the following sub section shall be substituted :

Any person who has not furnished the return with in the time limit allowed to hi under subsection, may furnish the return for any previous year at any time before the end of the relevant assessement year or before the completion of the assessment which ever is earlier.

For sub section (5) the following sub section shall be substituted :

If any person, having furnish the return under sub-section (1) or subsection (4) discovered any omission or any wrong statement therein, he may furnish the revised return at any time before the expiry of one year for the end of the relevant assessment year or before the completion of the assessment, which ever earlier.

Legislative framework to enable and expand the scope of electronic processing of information

Section 133C is proposed to be amended to provide adequate legislative backing for processing of information. It is also proposed to amend Explanation 2 to section 147 to provide for reopening of cases by the AO on the basis of such information so received.

To remove the mismatch between the return and the information available with the Department, it is proposed to expand the scope of adjustments that can be made at the time of processing of returns under section 143(1). It is proposed that such adjustments can be made based on the data available with the Department in the form of audit report filed by the assessee, returns of earlier years of the assessee, 26AS statement, Form 16, and Form 16A. However, before making any such adjustments, in the interest of natural justice, an intimation shall be given to the assessee either in writing or through electronic mode requiring him to respond to such adjustments.

The response received, if any, will be duly considered before making any adjustment. However, if no response is received within 30 days of issue of such intimation, the processing shall be carried out incorporating the adjustments.

These amendments will take effect from the June 01, 2016.

Section 153 of the IT Act is proposed to be substituted to provide as follows:

The reduced rate of taxation as applicable to non-residents was introduced by the Finance Act, 2012. The amendment applies to "unlisted securities", and the term "securities" means as defined under Securities Contract Regulations Act, 1956.The term securities includes "other marketable securities of a like nature". In terms of the Hon'ble Bombay High Court judgment in the case of Dahiben Umedbhai Patel vs. Norman James Hamilton [1985] 57 COMP. CAS. 700 (BOM.), private limited company shares are not marketable and hence do not fall within the ambit of the term "Securities". Thus, a view was taken that the provisions of Section 112(1)(c)(iii) are not applicable to shares of a private limited company.

With the proposed amendment, the beneficial rate will be applicable to shares of private limited company which is a welcome measure and puts at rest the ambiguity raised in this behalf.

Time Limit for Assessment, Reassessment and Re-computation (Section 153 of the IT Act):

Period for completion of an assessment under Section 143 or Section 144 is proposed to be changed from existing 2 years to 21 months from the end of the AY in which the income was first assessable;

Period for completion of assessment under Section 147 is proposed to be changed from existing one year to 9 months from the end of the FY in which the notice under Section 148 was served.

Period for completion of fresh assessment pursuant to an order under Sections 254 / 263 / 264 setting aside or cancelling an assessment is proposed to be changed from existing one year to 9 months from the end of the FY in which order under Section 254 is received or the order under Sections 263 or 264 is passed.

- Period for giving effect to an order under Sections 250 / 254 / 260 / 262 / 263 / 264 (i.e. an Order in the Appellate stream) or an order of the Settlement Commission where re-assessment or fresh assessment is not required, is proposed to be 3 months from the end of the month in which order is received or passed. Additional time of six months may be granted to give effect to the said order in a case where it is not possible for the AO to give effect to such order within the aforesaid period for reasons beyond his control. In respect of cases pending as on June 01, 2016, the time limit for passing such order is proposed to be extended to March 31, 2017.
- Where assessment, reassessment or recomputation is made in consequence of or to give effect to any finding or direction contained in an order under Sections 250 / 254 / 260 / 262 / 263 / 264 (i.e. an Order in the Appellate stream) or in an order of any court in a proceeding otherwise than by way of appeal or reference under the IT Act, then the same shall be made on or before the expiry of 12 months from the end of the month in which such order is received by the Principal Commissioner or Commissioner.

However, for cases pending as on June 01, 2016, the time limit for taking requisite action is proposed to be March 31, 2017 or 12 months from the end of the end of the month in which order in case of firm is passed, whichever is later.

Consequential changes are proposed in time limit for completion of assessment or reassessment by the AO in accordance with the extension of time limit provided to the Transfer Pricing Officer in certain cases by amendment in sub-section (3A) to

Section 92CA of the IT Act.

The amendment will take effect from June 01, 2016.

Rationalization of time limit for assessment in search cases (Section 153B of the IT Act):

Section 153B of the IT Act is proposed to be substituted to provide as follows:

Limitation for completion of assessment under Section 153A for past 6 AYs and in respect of the AY relevant to the previous year in which search is conducted under Section 132 or requisition is made under Section 132A is proposed to be changed from existing 2 years to 21 months from the end of the FY in which the last of the authorizations for search under Section 132 or for requisition under Section 132A was executed.

Limitation for completion of assessment in case of 'other person' referred to in Section 153C is proposed to be hanged from existing 21 years to 21 months from the end of the FY in which the last of the authorization for search under Section 132 or requisition under Section 132A was executed or 9 months (changed from the existing one year) from the end of the FY in which the books of account or documents or assets seized or requisition are handed over under Section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later.

The amendment will take effect from June 01, 2016.

The Proposed amendments seek to expedite the finalization of proceedings under the IT Act.

The proposed amendments to Section 153B of the IT Act have been made with the object to expeditiously finalize the proceedings under the Act.

Payment of interest on refund (Section 244A)

Section 244A is proposed to be amended to provide as follows:

Where the return is filed after the due date, the period for calculating interest on refund shall begin from the date of filing of return (instead of April 01 of AY) upto the date on which refund is granted.

Where the refund is out of any tax paid under Section 140A of the IT Act (i.e. self-assessment tax), the assesse shall be eligible for interest on the refund from the date of furnishing of return of income or payment of tax, whichever is later, up to the date on which refund is granted .

Where a refund arises out of an appeal and is delayed beyond the time prescribed under sub-section (5) of Section 153 (i.e. 90 days from the receipt of the order by concerned authorities), the assessee shall be entitled to receive an additional interest at the rate of 3% per annum (total interest rate 9%), for the period beginning from the date following the date of expiry of the time allowed under sub-section (5) of section 153 to the date on which the refund is granted.

This amendment will be effective from June 01, 2016 and will apply from AY 2017-18.

Rationalization of advance tax payment schedule [Section 211 and Section 234C of the IT Act] :

Section 211 is proposed to be amended to provide that all asseesses (other than an

eligible assessee in respect of an eligible business referred to in Section 44AD of the IT Act) shall be liable to pay advance tax in 4 installments as follows:

Due Date of Installment	Amount Payable
On or before 15 June	Not less than 15% of such advance tax
On or before 15 September	Not less than 45% of such advance tax as reduced by the amount, if any, paid in the earlier installment
On or before 15 December	Not less than 75% of such advance tax as reduced by the amount or amounts, if any, paid in the earlier installment or installments
On or before 15 March	The whole amount of such advance tax, as reduced by the amount or amounts, if any, paid in the earlier installment or installments.

Eligible assessee opting for computation of profits or gains of business on presumptive basis under Section 44AD shall be required to pay advance tax in one installment on or before 15th day of the month of March of each FY.

Consequential amendments have also been proposed under Section 234C providing for payment of interest in case of short-fall in payment of advance tax.

This amendment will be effective from June 01, 2016 and will apply from AY 2017-18

Rationalisation of proceedings before the Appellate Tribunal [Sections 253, 254 and 255 of the IT Act] :

- Sub-sections (2A) and (3A) of Section 253 proposed to be omitted shall do away with the option available to the AO to file an Appeal against the order of the DRP. Thus, the Order of the DRP will be binding on the Assessing officer.
- Sub-Section (2) of Section 254 is proposed to be amended to reduce the time period within which the Appellate Tribunal may rectify any mistake apparent on the record to 6 months as compared to the existing time period of 4 years from the end of the month in which the order was passed.
- Sub-section (3) of Section 255 is proposed to be amended to provide that a single member bench may dispose of a case where the total income as computed by the Assessing Officer does not exceed INR 50 lakh as compared to INR 15 lakh at present.

Proposed amendments will be applicable w.e.f. June 01, 2016.

Amendment to existing penal provisions

Section 271AAB(1) (c) of the IT Act dealing with 'Penalty where search has been initiated' provides that in a case not covered under the provisions of clauses (a) (assessee admits the undisclosed income in a statement during search, substantiates the manner in which undisclosed income was derived and furnishes returns disclosing such income and pays the tax with interest) and (b) (assessee does not admit the undisclosed income but files returns and pays tax with interest) of Section 271 AAB(1), a penalty in the range of 30% to 90% of the undisclosed income of the specified previous year shall be levied in case where search has been initiated under section 132 on or after the July 01, 2012. The said provision is proposed to be amended to reduce the discretion and to provide for levy of penalty on such undisclosed income at a flat rate of 60% of such income.

Section 272A(1) of the IT Act dealing with *'Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc'*, is proposed to be amended to include the following further penalty:

Levy of penalty of INR 10 thousand rupees for each default or failure to comply with a notice issued under Section 142(1) ('Inquiry before assessment') or Section 143(2) ('Assessment') or failure to comply with a direction issued under Section 142(2A) of the IT Act. Such penalty shall be imposed by the officer issuing notice or direction.

Section 288 of the IT Act which deals with 'Appearance by Authorised representative' is proposed to be amended to stipulate that no person convicted under Section 272A(1)(d) of the IT Act shall be qualified to represent an assessee.

Rationalization of penalty provisions [Section 270A of the IT Act] :

- New Section 270 A is proposed to be inserted under the IT Act to provide for imposition of penalty in cases of under reporting' and 'misreporting of income' as follows:
- A person shall be considered to have 'under reported' his income under the following situations:
  - Income assessed is greater than the income determined in the return processed under clause (a) of sub- Section (1) of Section 143;
  - Income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished;
  - Income reassessed is greater than the income assessed or reassessed immediately before such reassessment;
  - Amount of deemed total income assessed or reassessed as per the provisions of Section 115JB or 115JC, as the case may be, is greater than the deemed total income determined in the return processed under clause (a) of sub-section (1) of Section 143;
  - Amount of deemed total income assessed as per the provisions of Section 115JB or Section 115JC is greater than the maximum amount not chargeable to tax, where no return of income has been filed;
  - Income assessed or reassessed has the effect of reducing the loss or converting such loss into income
  - Proposed rate of penalty payable on under-reported income is 50% of the tax payable on under-reported income.

However, where the under reporting is as a result of 'misreporting of income of the assessee, proposed rate of penalty payable shall be 200% of the tax payable on such misreported income. A person shall be considered to have 'misreported' his income under the following situations:

- Misrepresentation or suppression of facts;
- Non-recording of investments in books of account;
- Claiming of expenditure not substantiated by evidence;
- Recording of false entry in books of account;
- Failure to record any receipt in books of account having a bearing on total income;

- Failure to report any international transaction or deemed international transaction under Chapter X.

Consequential amendments have been proposed in Sections 119, 253, 271A, 271AA, 271AAB, 273A and 279 to provide reference to section 270A.

Immunity from penalty and prosecution in certain cases by inserting new section 270AA :

It is proposed to provide that an assessee may make an application to the AO (within one month from the end of the month in which the order of assessment or reassessment is received), for grant of immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C, subject to the following conditions:

a) He pays the tax and interest payable as per the order of assessment or reassessment within the period specified in such notice of demand. Penalty provisions under section 271 of the IT Act gave vide powers to the tax authorities to impose penalty for failure to furnish returns, comply with notices, concealment of income, etc. In fact, majority of the litigation (in terms of penalty cases) revolved around the provisions of section 271(1)(c) of the IT Act which dealt specifically with the concealment of particulars of income and furnishing inaccurate particulars of such income.

   The tax authorities have vide discretion under these provisions to impose penalty (especially under section 271(1)(c)) to the extent of 100% to 300% of the tax sought to be evaded. The proposed amendment would rationalize and bring objectivity, certainty and clarity in the penalty provisions. The proposed amendment also clarifies that the existing Section 271 shall not apply to and in relation to any assessment for the AY commencing on or after April 01, 2017 and subsequent AYs.

b) Does not prefer an appeal against such assessment order. The AO shall, on fulfilment of the above conditions and after the expiry of period of filing appeal as specified in sub-section (2) of section 249, grant immunity from initiation of penalty and proceeding under section 276C if the penalty proceedings under section 270A has not been initiated on account of the following, namely:—

   (a) misrepresentation or suppression of facts;

   (b) failure to record investments in the books of account;

   (c) claim of expenditure not substantiated by any evidence;

   (d) recording of any false entry in the books of account;

   (e) failure to record any receipt in books of account having a bearing on total income; or

   (f) failure to report any international transaction or any transaction deemed to be an international transaction or

any specified domestic transaction to which the provisions of Chapter X apply.

The AO shall pass an order accepting or rejecting such application within a period of one month from the end of the month in which such application is received. However, in the interest of natural justice, no order rejecting the application shall be passed by the Assessing Officer unless the assessee has been given an opportunity of being heard. It is proposed that order of Assessing Officer under the said section

shall be final.

- It is proposed that no appeal under section 246A or an application for revision under section 264 shall be admissible against the order of assessment or reassessment referred to in clause (a) of sub-section (1), in a case where an order under section 270AA has been made accepting the application.

These amendments will take effect from the April 01, 2017 and will, accordingly, apply in relation to the assessment year 2017 - 2018 and subsequent years.

Amendment to Section 273A, 273AA or 220(2A) for providing time limit for disposing applications made by the assessee :

- It is proposed to amend Section 220 to provide that an order accepting or rejecting application of an assessee shall be passed by the concerned Principal Chief Commissioner, Chief Commissioner, Principal Commissioner or Commissioner within a period of 12 months from the end of the month in which such application is received.
- It is proposed to amend section 273A and section 273AA to provide that an order accepting or rejecting the application of an assessee shall be passed by the Principal Commissioner or Commissioner within a period of 12 months from the end of the month in which such application is received.
- It is also proposed to provide that no order rejecting the application of the assessee under section 220 or 273A, 273AA shall be passed without giving the assessee an opportunity of being heard. However, in respect of applications pending as on June 01, 2016, the order under said sections shall be passed on or before May 31, 2017.

These amendments will take effect from June 01, 2016.

Various changes have been proposed seeking to modify the entire scheme of penalty by providing different categories of misdemeanor with graded.

Bank Guarantee under Section 281B of the IT Act :

- Under the existing Section 281B of the IT Act ('Provisional attachment to protect revenue in certain cases'), the Assessing Officer may provisionally attach any property of the assessee during the pendency of assessment or reassessment proceedings, for a period of 6 months for the purpose of protecting the interests of the revenue.

  The Income Tax Simplification Committee (Easwar Committee) has recommended in para 27.1 and 27.2 of their report that provisional attachment of property could be substituted by a Bank Guarantee (BG) subject to fulfilment of certain conditions.
- Considering the said recommendation, it is proposed that if BG is furnished for an amount not less than the fair market value of such provisionally attached property (to determine which the assistance of Valuation Officer may be availed) or for an amount which is sufficient to protect the interests of the revenue, then the AO may revoke the provisional attachment of property.
- It is further proposed that where a notice of demand specifying a sum payable is served upon the assessee and the assessee fails to pay such sum within the time specified in the notice, the AO may invoke the BG, wholly or partly, to recover the said amount.

- It is also proposed that in a case where the AO is satisfied that the BG is not required anymore to protect the interests of the revenue, he shall release that BG.

Providing legal framework for automation of various processes and paperless assessment :

- It is proposed to amend sub-section (1) of section 282A to provide that notices and documents required to be issued by income-tax authority under the Act shall be issued by such authority either in paper form or in electronic form in accordance with such procedure as may be prescribed.
- It is proposed to amend sub-section (2) of section 143 to provide that notice under the said sub-section may be served on the assessee by the Assessing Officer or the prescribed income-tax authority, either to attend the office of the Assessing Officer or to produce, or cause to be produced before the Assessing Officer any evidence on which the assessee may rely in support of the return.
- This amendment is proposed to be made to ensure timely service of notice.
- It is also proposed to amend the existing provision of section 2 by inserting new clause (23C) to define the term "hearing" to include communication of data and documents through electronic mode.

These amendments will take effect from the June 01, 2016.

SERVICE TAX

TAX RATE

The aggregate Service Tax rate w.e.f. June 01, 2016 would be 15%.

Krishi Kalyan Cess is proposed to be levied w.e.f. June 01, 2016 on all taxable services at the rate of 0.5% on the value of such taxable services with the objective of financing and promoting initiatives to improve agriculture. This Cess will be levied from 1 June 2016. Credit of Krishi Kalyan Cess paid on input services shall be allowed to be used for payment of the proposed Cess on the service provided by a service provider.

Amendments to Finance Act – with effect from date of enactment of the Finance Bill [unless otherwise indicated]

Definition of 'SERVICE'

The definition of 'service' is proposed to be amended to provide that Service Tax is payable on activities in relation to promotion, marketing, organizing, selling of lottery, facilitating in organising lottery of any kind, in any other manner, in accordance with the provisions of the Lotteries (Regulation) Act, 1998, carried out by a lottery distributor or selling agent on behalf of the State Government.

Explanation 2, sub-clause (ii)(a) to the definition of 'service' under Section 65B(44) is proposed to be substituted to state that this activity will not tantamount to a 'transaction in money or actionable claim', which is excluded from the levy of Service Tax.

Change in declared service

Section 66E(j) is proposed to be inserted to declare 'assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof' as service.

By this amendment, the Centre has declared that assignments and transfers of radio-frequency spectrum are liable to Service Tax. It may be noted that in a similar context involving alleged sale of 'artificially created light energy', the Karnataka High Court by its judgement in **Bharti Airtel Ltd vs. State of Karnataka [2012 (25) STR 514 (Kar)],** held that the energy / waves used by telecom service providers as a carrier for data / information through optical fibre cable broadband lines would not constitute 'goods', and that such transactions would accordingly attract Service Tax and not VAT. While the Centre has now codified the position that such transactions are liable to Service Tax, it remains to be seen how the State authorities (VAT) will treat such assignments / transfers under the VAT legislations.

Time or point in time with respect to rate of service tax

Section 67A of the Act provides that the applicable rate of tax would be the rate as applicable at the time when the taxable service has been provided or agreed to be provided. The said Section is proposed to be amended to clarify that the time or point in time with respect to rate of Service Tax shall be such as may be prescribed. The proposed amendment along with the corresponding amendment in POTR [in its preamble, referring to the powers granted in terms of Section 67A(2)], puts the conflict between the POTR and Section 67A, if any, at rest.

Normal period of limitation enhanced to 30 months

Section 73 of the Act provides for a limitation period of 18 months for recovery of Service Tax not levied or paid or short levied or short paid or erroneously refunded by a Central Excise Officer, in cases not involving fraud, suppression of facts, wilful mis-statement etc. with an intention to evade duty. The said Section is proposed to be amended to increase the limitation period from 18 months to 30 months. The increase in limitation period in cases where there is no fraud, suppression etc. may cause a major setback to bona fide cases and lead to an increase in litigation. This proposal creates greater onus and exposure for the assessees.

Relief to director, manager, etc., of company in respect of penalty in specified cases

It is proposed to be clarified by way of Explanation that where proceedings against a Company under Section 73 of the Act have been concluded on payment of Service Tax and interest within a period of 30 days of the receipt of Show Cause Notice (in terms of Section 76 or Section 78 of the Act), the proceedings in relation to personal penalty on the directors, managers, secretary etc. of the Company under 78A of the Act will also be deemed to be concluded. This amendment settles the dispute as regards whether penalty proceedings may continue to be pursued against a director, manager, etc. where the company has accepted liability, and paid duty, interest and reduced penalty.

Prosecution limits enhanced

Section 89 of the Act provides for imprisonment for offences relating to evasion of Service Tax, availment and utilization of CENVAT Credit without actual receipt of taxable service or excisable goods, maintenance of false books of accounts, failure to deposit Service Tax with the Central Government after collecting the same. This penal action is subject to a monetary limit of INR 50 lakhs. It is proposed to increase the monetary limit of INR 50 lakhs to INR 2 crores for filing of complaints under Section 89.

Power to arrest curtailed only for specified offence

The power to arrest under the Act is proposed to be restricted only to situations where the assessee has collected tax but not deposited it with the Central Government, and the amount of such tax is more than INR 2 crores.

CBEC vide Circular No. 101/17/2015-CX. dt. October 23, 2015 had revised monetary limits for arrest in central excise and service tax cases to more than INR 1 crore. This increase in monetary limits, being by way of circular, may be said to have been without the authority of law. The present amendment endorses the increase in monetary limit, however prospectively. This is a welcome move towards reducing coercive litigation.

Definition of 'support services' deleted – w.e.f. 1 April 2016

In the last budget, Section 66D(a) i.e. the Negative List was proposed to be amended (w.e.f. a notified date) in order to tax all the services provided by the Government or local authority to a business entity. Recently, a notification was issued to notify the effective date as 1 April 2016 to tax such services. As a consequential amendment, this budget has provided for deletion of clause (49) of Section 65B defining the term 'support services' w.e.f. 1 April 2016.

Allowance of service tax rebate on input services by way of notification

Currently, there are existing service tax notifications issued under Section 93A for granting rebate of service tax paid on taxable services which are used as input services for manufacturing or for providing any taxable services. Section 93A is being amended for ratifying such notifications, which earlier provided for allowance of rebate only by way of Rules.

Retrospective amendment to grant rebate on input services used beyond place of manufacture for export of goods

Refund of service tax on services used beyond the factory or any other place or premises of production or manufacture of the said goods, for export of the said goods allowed retrospectively, for the period July 01, 2012 to February 01, 2016.

W.e.f. February 1, 2016, the said refund was allowed by way of amendment to the parent notification. The said amendment is being given retrospective effect from the date of application of the parent notification, i.e., from July 01, 2012.

Time period of one month is proposed to be allowed to the exporters whose claims of refund were earlier rejected.

New exemptions / concessions (w.e.f. 1 April, 2016 unless otherwise specified)

- ✓ Services provided by the Indian Institutes of Management by way of the following educational programs:
  - 2 year full time Post Graduate Programme in Management (other than executive development programme), admissions to which are made through Common Admission Test conducted by Indian Institutes of Management;
  - 5 year Integrated Programme in Management; and
  - Fellowship Programme in Management [w.e.f. March 01, 2016]
- ✓ Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship.
- ✓ Services provided by way of skill/vocational training by Deen Dayal Upadhyay Grameen Kaushalya Yojana training partners.
- ✓ Services provided to the Government, a local authority or a governmental authority by way of construction, erection, etc. of –
  - a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
  - a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;
  - a residential complex predominantly meant for self-use or the use of their employees or other persons [w.e.f. March 01, 2016]

  In order to broaden the tax base, this exemption which was withdrawn with effect from April 01, 2015 is being restored for the services provided under a contract which had been entered into prior to March 01, 2015 and on which appropriate stamp duty, where applicable, had been paid prior to that date. The exemption is being restored till March 31, 2020. The exemption is proposed to be extended retrospectively during the period from April 01, 2015 to February 29, 2016 as per Section 102 of the Act.

- ✓ Services by way of construction, erection etc. of a civil structure or any other original works pertaining to the "In-situ Rehabilitation of existing slum dwellers using land as a resource through private participation" component of Housing for All (Urban) Mission / Pradhan Mantri Awas Yojana, except in respect of such dwelling units of the projects which are not constructed for existing slum dwellers [w.e.f. March 01, 2016]
- ✓ Services by way of construction, erection etc., of a civil structure or any other original works pertaining to the "Beneficiary-led individual house construction / enhancement" component of Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana [w.e.f. March 01, 2016].
- ✓ Services by way of construction, erection, etc., of original works pertaining to low cost houses up to a carpet area of 60 sq.m per house in a housing project approved by the competent authority under the "Affordable housing in partnership" component of Pradhan Mantri Awas Yojana or any housing scheme of a State Government [w.e.f. March 01, 2016]
- ✓ Services by way of construction, erection, commissioning or installation of original works pertaining to an airport or port. The exemption is in respect of contracts which had been entered into prior to March 01, 2015 and on which appropriate stamp duty, where applicable, had been paid prior to that date subject to production of certificate from the Ministry of Civil Aviation or Ministry of Shipping, as the case may be, that the contract had been entered into prior to March 01, 2015 [w.e.f. March 01, 2016]

  This exemption was withdrawn with effect from April 01, 2015. The exemption is being restored till March 31, 2020. The exemption is proposed to be extended retrospectively during the period from April 01, 2015 to February 29, 2016 as per proposed Section 103 of the Act.
- ✓ Services by way of transportation of goods by an aircraft from a place outside India up to the customs station of clearance in India [w.e.f. March 01, 2016]

  The service is presently covered under the Negative List. The said Negative List entry is proposed to be omitted. However, services of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India which were under the Negative List earlier have now become taxable. With this amendment, (i) the shipping industry will be hugely affected, being saddled with taxes; (ii) the cost of imports would increase. Further, no reason has been provided for the inconsistent treatment of transportation of goods by vessels and aircrafts The Tax Research Unit (MoF) clarifies that Service Tax levied on such services shall not be part of the value for custom duty purposes.
- ✓ Service of transporting passengers with or without accompanied belongings by a non-air conditioned stage carriage [w.e.f. June 01, 2016].

  Earlier, the exemption included an air-conditioned stage carrier as well, under the negative list entry under Section 66D(o)(i) of Act. The said entry is proposed to be deleted from the Act. Such services by air-conditioned stage carriage are proposed to be taxed at the same level of abatement (60%) as applicable to the transportation of passengers by a contract carriage, with same conditions of non-availment of CENVAT credit.
- ✓ Service of general insurance business provided under the scheme of Nirmaya

Health Insurance implemented by Trust constituted under the provisions of the National Trust for the welfare of persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

- ✓ Service of life insurance business provided by way of annuity under the National Pension System regulated by PFRDA.
- ✓ Service provided by Employees' Provident Fund Organisation to persons governed under Employees' Provident Funds and Miscellaneous Provisions Act, 1999.
- ✓ Services provided by IRDA to insurers.
- ✓ Services provided by SEBI under SEBI Act, 1992.
- ✓ Services provided by National Centre for Cold Chain Development by way of cold chain knowledge dissemination. The exemption is provided to the National Centre for Cold Chain Development under the Department of Agriculture, Cooperation and Farmer's Welfare, Government of India.

Existing exemptions / concessions amended (w.e.f April 01, 2016 unless otherwise specified)

- ✓ Entry 6 of Mega Exemption has been substituted to curtail its scope and exclude exemption in relation to services provided by a senior advocate to an advocate, partnership firm or a business entity. Further, the definition of 'Senior Advocate' has also been inserted which is linked to Section 16 of the Advocates Act, 1961. The withdrawal of the said exemption would become a cost in the value chain.
- ✓ Exemption in relation to services provided by persons represented in an arbitral tribunal to an arbitral tribunal has also been withdrawn.
- ✓ The exemption in Entry 14(a) of Mega Exemption relating to construction, erection, commissioning or original work pertaining to monorail or metro has been withdrawn in respect of contracts entered into on or after 1 March 2016.
- ✓ The threshold limit of consideration provided under exemption Entry 16 of Mega Exemption relating to services provided by a performing artist in folk or classical forms of music, dance or theatre is increased from one lakh to one lakh and fifty thousand.
- ✓ The exemption in Entry 23(c) of Mega Exemption relating to transport of passengers by ropeway, cable car or aerial tramway has been withdrawn.
- ✓ Service Tax has been exempted w.e.f. March 01, 2016 on Information Technology Software if such software is:
    - Recorded on a media which is notified under Chapter 85 of the CETA;
    - On which RSP is required to be declared;
    - The value of the package of such media domestically procured or imported, has been determined under Section 4A of the CE Act;
    - Excise Duty / CVD has been paid by the manufacturer / importer on RSP basis;
    - The service provider has to make a declaration on the invoice that no amount in excess of the declared RSP has been recovered from the customer.

Amendments to STR (effective from April 01, 2016)

Addition / amendment in the definition of "person liable to pay Service Tax" under Rule 2(1)(d)

- ✓ Mutual fund agent or distributors have been designated as persons liable to pay Service Tax in respect of services provided by them to a mutual fund or asset management company. Prior to this amendment, services provided by mutual fund agent or distributors were taxable on a reverse charge mechanism basis. As a result, such agents / distributors were not eligible to avail CENVAT credit of the Service Tax paid on various Input services.
- ✓ Legal services provided by a senior advocate are removed from payment under reverse charge mechanism basis. With the withdrawal of exemptions of legal services provided by a senior advocate to business entities, senior advocates will be required to obtain registration under Service Tax and will be liable to discharge Service Tax liability on their own account.

Periodicity of payment of service tax by One Person Company and HUF

Rule 6 of the STR which deals with the payment of Service Tax and prescribes relaxation for individual or proprietary firm or partnership firm, is being amended as follows:

- One Person Company having aggregate value of taxable services provided from one or more premises, of fifty lakh Rupees or less in the previous financial year shall be liable to discharge Service Tax on receipt basis by the 5th of the of the month immediately preceding the quarter in which the services is deemed to be provided
- The benefit of quarterly payment of Service Tax is also extended to HUF

Amendment of rate of Service Tax on single premium annuity policies

Clause (ia) has been inserted in Rule 6(7A) to provide an option to an insurer carrying on life insurance business to pay Service Tax @ 1.4% on single premium annuity policies where the amount allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service.

Submission of annual return - Rule 7

Every assessee is now required to file annual return by 30th November of the succeeding financial year to which the return relates. A revised return can be submitted within one month from the date of submission of the annual return. Further, the assesee shall be liable to pay INR 100 per day of delay in filing of return and subject to a maximum of INR 20,000.

Amendments to POTR (effective from March 01, 2016)

- ✓ In addition to Section 94 of the Act, specific powers have now been given under Section 67A to frame rules regarding point in time of rate of Service Tax.
- ✓ Consequent to the above, Explanation 1 and 2 are added to Rule 5, which deals with payment of Service Tax on services taxed for the first time, to clarify that
  - This Rule shall also apply in case of new levies
  - New levy / tax shall be payable on all cases except where the payment is received before such service/levy became taxable for the first time and where the invoice is issued either before or within fourteen days of the

date when the service/levy becomes taxable for the first time.

The insertion of the Explanation is to deal with situations of introduction of new levies including Krishi Kalyan Cess. The absence of these provisions, caused controversies as regards application of Swachh Bharat Cess inserted in Budget 2015.

Rationalisation of Interest Rate

Interest rate payable on delay in payment of Excise Duty, Customs Duty and Service Tax has been rationalized to uniform 15% p.a. However, where Service tax has been collected but not deposited with the Central Government on or before the date on which the payment becomes due, the interest rate would be 24% p.a. For tax payers with value of taxable services less than sixty lakh Rupees in the preceding financial year, interest on delayed payment of tax will be @ 12%.

Indirect Tax Dispute Resolution Scheme:

This scheme is provides for settlement of disputes before Commissioner (Appeals) as on the 1st March 2016. The salient features are as follows :

- The declarant shall pay tax due along with the interest thereon and penalty equivalent to 25 % of the penalty imposed in the impugned order.
- The payment of tax, interest and penalty shall be made within 15 days of the receipt of the acknowledgment of filling of declaration.
- The scheme is applicable up to 31st December 2016.
- The benefit of the scheme is not applicable in case of
  - Search and Seizure proceeding .
  - Prosecution instituted before 1st June 2016.
  - Cases covered under various criminal acts like IPC, NDPS , POCA.
  - Order in respect of Narcotic Drugs and other prohibited goods.
  - Detention order passed under COFEPOSA.
- The declarant shall get immunity from all proceedings under the act.
- Declaration under the scheme become concussive upon issuance of the order under the scheme.
- Any amount paid under the scheme is non refundable.

RATES OF SERVICE TAX

PERIOD	RATE OF TAX
01-07-1994 to 13-05-2003	5%
14-05-2003 to 09-09-2004	8%
10-09-2004 to 17-04-2006	10.20% (ST+EC)
18-04-2006 to 10-05-2007	12.24% (ST+EC)
11-05-2007 to 23-02-2009	12.36% (ST+EC+SHEC)
24-02-2009 to 31-03-2012	10.30% (ST+EC+SHEC)
01-04-2012 to 31-05-2015	12.36% (ST+EC+SHEC)
01-06-2015 to 14-11-2015	14.00% (ST+EC+SHEC)
15-11-2015 to 31-05-2016	14.50% (ST+EC+SHEC+SBC)
01-06-2016 onwards	15.00% (ST+EC+SHEC+SBC+KKC)

Note: The Central Government will impose a Krishi Kalyan Cess on all or any of the taxable services at a rate of 0.5% on the value of such taxable services. This Cess will be effective from 01-06-2016.

RATES OF INTEREST

PERIOD	RATE OF INTEREST
01-07-1994 to 15-07-2001	1.5% p.m. and part thereof
16-07-2001 to 15-08-2002	24% p.a.
16-08-2002 to 09-09-2004	15% p.a.
10-09-2004 to 31-03-2011	13% p.a.
01-04-2011 to 30-09-2014	18% p.a. 15% p.a. (For assessee having turnover upto Rs. 60lakh)
01-10-2014 to up to enactment of The Finance Bill, 2016	
Up to six months	18%
More than six months but up to one year	18% for the first six months of delay and 24% for the delay beyond six months
More than one year	18% for the first six months, 24% for period beyond six months up to one year and 30% for any delay beyond one year
After enactment of The Finance Bill, 2016	15% 12% p.a. (For assessee having turnover up to Rs. 60 lakh) 24% in case of Service Tax collected but not deposited to the exchequer.

BASIC EXEMPTION LIMIT

PERIOD	BASIC EXEMPTION LIMIT
01-07-1994 to 31-03-2005	No limit
01-04-2005 to 31-03-2007	Rs. 4 lakhs
01-04-2007 to 31-03-2008	Rs. 8 lakhs
01-04-2008 onwards	Rs. 10 lakhs

REVERSE CHARGE MECHANISM

Sr.	Description of services	Notes	Service tax payable by the person providing services	Service tax payable by the person receiving services
1.	Insurance agent service to any person carrying on insurance business	-	NIL	100%
1A.	Service of recovery agent to a banking company or a financial institution or a non banking financial company	-	NIL	100%
1B.	Service provided by mutual fund agents, mutual fund distributors w.e.f. 01/04/2015	-	NIL	100%
	Service provided by mutual fund agents, mutual fund distributors w.e.f. 01/04/2016	-	100%	NIL
1C	Service provided by lottery agents w.e.f. 01/04/2015	-	NIL	100%
2.	Goods transport agency services	-	NIL	100%
3.	Sponsorship services to anybody corporate or partnership firm located in taxable territory	-	NIL	100%
4.	Arbitral tribunal service to any business entity	-	NIL	100%
5.	Services of individual advocate or a firm of advocates to any business entity	-	NIL	100%
	Services of individual advocate or a firm of advocates other than a senior advocate to any business entity (w.e.f. 01/04/2016)	-	NIL	100%
5A	Services by a director or body corporate to a company or body corporate (other than employee- employer relationship)	-	NIL	100%
6.	Services by government or local authority by way of support services to any business entity	-	NIL	100%

Sr.	Description of services	Notes	Service tax payable by the person providing services	Service tax payable by the person receiving services
	Services by government or local authority to any business entity (w.e.f. 01/04/2016)	-	NIL	100%
7.	a) renting of motor vehicle designed to carry passengers(where abatement is availed)	1 &2	NIL 50% wef 1-10-2014	100% 50% wef 1-10-2014
	b) renting of a motor vehicle designed to carry passengers(where abatement is not availed)		60%	40%
8.	Supply of manpower service/Security service (up to 31/03/2015)	1	25%	75%
	Supply of manpower service/Security service (w.e.f. 01/04/2015)	-	-	100%
9.	Works contract service	1	50%	50%
10.	Service provided from non taxable territory and received in taxable territory	-	NIL	100%
11.	Service provided by mutual fund agents, mutual fund distributors and lottery agents w.e.f. 01/04/2015	-	NIL	100%

NOTES

In case of renting of motor vehicle designed to carry passengers, supply of man power, security services and contract services

1. (a) The service provider should be an individual or HUF or partnership firm (whether registered or not) including AOP; and
   (b) The service recipient should be a body corporate
2. In case of services of renting of a motor vehicle, the service recipient should be any person who is not engaged in similar line of business.

ABATEMENT FROM VALUE OF SERVICE

Sl. No.	Description of taxable service	Taxable Percent-age	Conditions
(1)	(2)	(3)	(4)
1	Services in relation to financial leasing including hire purchase	10	Nil.
2	Transport of goods by rail (up to 31/03/2016)	30	Nil.
	Transport of goods, other than in containers, by rail (w.e.f. 01/04/2016)	30	CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
2A	Transport of goods in containers by rail (w.e.f. 01/04/2016)	40	same as above
3	Transport of passengers, with or without accompanied belongings by rail	30	CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (w.e.f. 01/04/2016)
4	Bundled service by way of supply of food or any other article of human consumption or any drink, in a premises (including hotel, convention center, club, pandal,shamiana or any other place, specially arranged for organizing a function) together with renting of such premises	70	CENVAT credit on any goods classifiable under Chapters 1 to 22 of the Central Excise Tariff Act, 1985 (5 of 1986) used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
5	Transport of passengers by air,(economy class and higher class) with or without accompanied belongings	40	CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
	Transport of passengers by air (higher class only) with or without accompanied belongings w.e.f 01/04/2015	60	
6	Renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes.	60	Same as above.

Sl. No.	Description of taxable service	Taxable Percent-age	Conditions
(1)	(2)	(3)	(4)
7	Services of goods transport agency in relation to transportation of goods.(upto 31/03/2015)	25	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
	Services of goods transport agency in relation to transportation of goods. w.e.f 01/04/2015	30	
7A	Service of goods transport agency in relation to transport of used household goods (w.e.f. 01/04/2016)	40	CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
8	Services provided in relation to chit (up to 31/03/2015)	70	Same as above
	Abetment is withdrawn w.e.f 01/04/2015		
	Services provided in relation to chit (w.e.f. 01/04/2016)	70	
9	Renting of any motor vehicle designed to carry passengers	40	(i) CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004; (ii) CENVAT credit on input service of renting of motor cab has been taken under the provisions of the CENVAT Credit Rules, 2004, in the following manner: (a) Full CENVAT credit of such input service received from a person who is paying service tax on forty percent of the value; or (b) Up to forty percent CENVAT credit of such input service received from a person who is paying service tax on full value;

Sl. No. (1)	Description of taxable service (2)	Taxable Percentage (3)	Conditions (4)
			(iii) CENVAT credit on input services other than those specified in (ii) above, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
9A	Transport of passengers, with or without accompanied belongings, by a contract carriage other than motor cab and air conditioned stage carriage. Transport of passengers, with or without accompanied belongings, by- (a) contract carriage other than motor cab. (b) radio taxi. (c) air conditioned stage carriage (w.e.f. 01/06/2016)	40	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004
10	Transport of goods in a vessel (upto 31/03/2015)	40	Same as above.
	Transport of goods in a vessel. w.e.f. 01/04/2015	30	
	Transport of goods in a vessel. (w.e.f. 01/04/2016)		CENVAT credit on inputs and capital goods used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
11	Services by a tour operator in relation to,- (i) a package tour (upto 31/03/2016) (w.e.f. 01/04/2016)	 25 30	(i) CENVAT credit on inputs and capital goods used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The bill issued for this purpose indicates that it is inclusive of charges for such a tour.

Sl. No.	Description of taxable service	Taxable Percentage	Conditions
(1)	(2)	(3)	(4)
	(ii) a tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour	10	(i) CENVAT credit on inputs and capital goods used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The invoice, bill or challan issued indicates that it is towards the charges for such accommodation. (iii) This exemption shall not apply in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such accommodation.
	(iii) any services other than specified at (i) and (ii) above. (upto 31/03/2016)	40	(i) CENVAT credit on inputs and capital good used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The bill issued indicates that the amount charged in the bill is the gross amount charged for such a tour.
	Any services other than specified at (ii) above (w.e.f. 01/04/2016)	30	
12	Construction of a complex, building, civil structure or a part thereof, intended for a sale to a buyer, wholly or partly except where entire consideration is received after issuance of completion certificate by the competent authority,-		(i) CENVAT credit on inputs used for providing the taxable service has not been taken under the provisions of the CENVAT Credit Rules, 2004; (ii) The value of land is Included in the amount charged from the service receiver.

Sl. No.	Description of taxable service	Taxable Percentage	Conditions
(1)	(2)	(3)	(4)
	(a) for residential unit having carpet area upto 2000 square feet or where the amount charged is less than rupees one crore;	25	
	(b) For other than the (i) above. (upto 31/03/2016)	30	
	For both (a) and (b) above (w.e.f. 01/04/2016)	30	

Determination of value in case of works contract and supply of food and drink

Sl. No.	Description of taxable service	Taxable Percentage	Conditions
(1)	(2)	(3)	(4)
Service Tax (Determination of Value) Rules, 2006	Service portion in the execution of work contract a) Original Works b) Others not covered by (a)	 40 70	(i) CENVAT credit on inputs used for providing the taxable service has not been taken under the provisions of the CENVAT Credit Rules, 2004;
	Service portion in an activity wherein food or any drink is supplied at a Restaurant	40	CENVAT credit on any goods classifiable under Chapters 1 to 22 of the Central Excise Tariff Act, 1985 (5 of 1986) used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
	Service portion in an activity wherein food or any drink is supplied in Outdoor Catering.	60	

Excise

Legislative Amendments:

Form and method of publication of Notifications issued under Section 5A of CE Act

The condition of publishing and offering for sale of any Notifications issued under Section 5A(1) or Section 5A(2A) by the Directorate of Publicity and Public Relations, Customs and Central Excise , New Delhi under CBEC, is proposed to be omitted.

The said amendment has been proposed to overcome the judgment of the Hon'ble Supreme Court in the case of Union of India vs. Param Industries Ltd. [2015 (321) ELT 192], wherein it was inter alia held that though the Notification may have been published in the Gazette on a particular date, however it was not offered for sale, which event took place much thereafter and therefore the Department was not entitled to claim differential duty in respect of the new Notification.

Extension of normal period of limitation under Section 11A of the CE Act

Section 11A is proposed to be amended to increase the period of limitation from 1 year to 2 years in cases not involving fraud, suppression, mis-statement, etc.

Expansion of powers of CBEC to issue instructions even with respect to implementation of any provisions of the CE Act

Under Section 37B of the CE Act in order to maintain uniformity in Department practices, it is proposed to empower the CBEC to also issue instructions with respect to implementation of any provisions of the CE Act, in addition to the already existing powers in respect of classification and levy of duties of excise on goods.

Amendment to the list of goods considered to be "deemed manufacture" under Section 2(f)(iii) of the CE Act

- Entry Nos. 40 and 41 of the Third Schedule are proposed to be amended to include all goods under CETH 3401 (soap) and 3402 (organic surface active agents), respectively.
- A new Entry No. 63A is proposed to be inserted to include all goods falling under CETH 7607 i.e. aluminium foil of thickness not exceeding 0.2 mm.
- A new Entry No. 81D is proposed to be inserted to include all goods falling under CETH 8517 62 i.e. wrist wearable devices (smart watches).
- Entry Nos. 100 and 100A are proposed to be amended to include "accessories" of vehicles in addition to the existing "parts, components and assemblies".
- Further, in view of the proposed changes vide 2017 HSN, Entry No. 58 is proposed to be amended to include glazed tiles, in addition to vitrified tiles, whether polished or not. Consequently, Entry No. 59 which covers Glazed Tiles is proposed to be omitted. However, such substitution and omission is proposed to come into effect from January 1, 2017.

Exemption from registration of multiple premises/factories to manufacturer/producers of jewellery

- Vide Notification No. 5/2016 and 6/2016–Central Excise (N.T.), in terms of powers conferred by sub-rule (2) of Rule 9 of the CE Rules, every manufacturing factory or premises engaged in the manufacture or production of articles of jewellery other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire, falling under chapter heading 7113 of the First Schedule to the CET Act, having a centralised billing or accounting system in respect of such specified goods manufactured or produced by different factories or premises, is proposed to be exempted from registering individual factories/premises under Rule 9 of the CE Rules and instead, such manufacturer may opt for registering only the factory or premises or office, from where such centralised billing or accounting is done.
- Accordingly, Notification No.35/2001-C.E.(N.T) dated 26.06.2001 with provides for conditions, safeguards and procedures for registration and exemption in specified cases, is proposed to be amended to include aforesaid jewellery manufactures, in the exempted category, exempting them from physical verification of their premises for the purpose of registration.
- This amendment is a move towards removal of obtaining individual registrations for each unit and making it easier for manufacturers having multiple units to choose to operate out of one specified unit having central billing and accounting.

Fixed tariff value in respect of articles of jewellery (other than silver jewellery)

Vide Notification No. 7/2016–Central Excise (N.T.), fixed tariff value in respect of articles of jewellery (other than silver jewellery), falling under CETH 7113 of the First Schedule to the CET Act, at the rate of 30% of the transaction value as declared in the invoice, as notified by Notification No. 9/2012-C.E.(N.T.) dated March 17, 2012 is proposed to be rescinded.

Amendment to Central Excise Rules (Notification No. 8/2016–Central Excise (N.T.)

- W.e.f March 01, 2016, Rule7(4) of the CE Rules is proposed to be substituted, vide which an assessee shall be liable to pay interest on any amount paid or payable on the goods under provisional assessment, but not paid on the due date specified under Rule 8(1) and the first proviso thereto, at a rate specified under a Notification issued under Section 11AA of the CE Act, for the period starting first day after the due date till the date of actual payment, whether such amount is paid before or after the issue of order for final assessment.
- Previously, interest was only payable on amount due to the Central Government consequent to final assessment from the first day of the month succeeding the month for which such amount was determined, till the date of payment thereof.
- W.e.f. March 01, 2016, Explanation 1 to the second proviso to Rule 8 of the CE Rules is proposed to include an assessee engaged in the manufacture or production of articles of jewellery other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire, falling under CETH 7113. Such assessee shall be

eligible to avail exemption under a Notification based on the value of clearances in a financial year, and pay duty on goods cleared during a quarter of the financial year by the 6th day of the month following the quarter if the duty is paid electronically through internet banking and in any other case , by the 5th day of the month following the quarter. Further, additionally, the assessee will only be eligible if his aggregate value of clearances of all excisable goods for home consumption in the preceding financial year, computed in the manner specified in the said notification, does not exceed INR 12,00,00,000.

- Rule 11(8) of the CE Rule is proposed to be amended, omitting the requirement of providing self attested copies of digitally signed duplicate invoices, by the manufacturer to a transporter, for the purpose of transportation of goods. This amendment is a move towards removal of obtaining individual registrations for each unit and making it easier for manufacturers having multiple units to choose to operate out of one specified unit having central billing and accounting.
- Rules 12(2)(a)and (b) are proposed to be amended wherein the requirement of submitting "Annual Financial Information Statement" for the preceding financial year, has been substituted with the words "Annual Returns" for the preceding year. Further, Clause (c) has been inserted after Rule 12(2)(b), which provides that the provisions of this sub-rule and clause (b) shall mutatis mutandis apply to 100% EOU. Further more, the requirements of submitting an Annual Installed Capacity Statement along with returns, under Rule 12(2A) of the CE Rules is proposed to be done away with.
- In Rule 12(6), the words "Annual Financial Information Statement" and "Annual Installed Capacity Statement" are proposed to be omitted. The said sub-rule 6, provides for penalty of INR 100 per day, for delay in submission of returns and said statements. w.e.f. April 1, 2016, the same shall apply only to delay in the submission of returns.
- Sub-rule 12(8)(a) of the CE Rules, is proposed to be inserted, wherein it is provided that an assessee who has filed returns within the prescribed period, may file revised returns by the end of the calendar month in which the original return was filed. Further, the "relevant date" for recovery of duty in cases where revised returns are filed under Rule 12(8)(a), shall be the date on which the revised returns were filed.
- Sub-rule 12(8)(b) of the CE Rules is proposed to be inserted to provide that an assessee who has filed Annual Returns within the prescribed period, may also submit revised returns within a period of one month from the date of submission of the Annual returns. Consequential amended have also been proposed to be made to Rule 17 of the CE Rules, to reflect provision of filing revised returns and respective effect on the term "relevant date" for recovery of duties in cases where revised returns are filed.
- Rule 26 of the CE Rules which provides for penalty for certain specified offences, is proposed to be amended with the addition of a new proviso after sub-rule(1) , which states that where any proceedings in respect of a person liable to pay duty have been concluded under Section 11AC(1)(a) or

(d) of the CE Act, in respect of duty, interest and penalty, all proceedings in respect of penalty against other persons, if any, in the said proceedings shall be deemed to be concluded.

Amendment to Pan Masala Packing Machines (Capacity Determination and Collection of Duty) Rules, 2008

Vide Notification No. 9/2016–Central Excise (N.T.) Serial No.4, for item (iv) in Form 2 of the Pan Masala Packing Machines (Capacity Determination and Collection of Duty) Rules, 2008 is proposed to be substituted, whereby the break-up of duty payment for apportionment between various duties, shall be revised w.e.f. the date of publication of this Notification in the Official Gazette.

Amendment to Chewing Tobacco and Unmanufactured Tobacco Packing Machines (Capacity Determination and Collection of Duty) Rules, 2010

- Vide Notification No. 10/2016–Central Excise (N.T.), Rule 5 has been proposed to be substituted, w.e.f. the date of publication of the Notification in the Official Gazette, whereby the quantity of notified goods, having retail sale price as specified in Table 1 or Table 2 mentioned therein, deemed to be produced by use of one operating packing machine, having maximum packing speed at which it can be operated for packing of notified goods, has been enhanced in respect of items specified in columns 3, 4, 5 and 6 of Table 1 and Table 2, as the case may be.
- Table 1 pertains to capacity of production per packing machine per month for Chewing tobacco including Filter Khaini (number of pouches). Table 2 pertains to the capacity of production per packing machine per month for Jarda Scented Tobacco and Unmanufactured Tobacco (number of pouches).

Deputy / Assistant Commissioner will no longer be required to verify the correctness

Notification No.21/2004-C.E. (N.T.) deals with the procedure for claiming rebate of duty under Rule 18 of the CE Rules of excisable goods used in the manufacture of goods that are exported. It is now proposed that the Deputy / Assistant Commissioner will no longer be required to verify the correctness of the ratio of the input and output as now in addition to the Declaration that is required to be filed, a Chartered Engineer's certificate in respect of the correctness of the ratio of input and output, would be required to be provided. However, if the Deputy / Assistant Commissioner doubts the correctness of the Declaration, he can visit the factory and verify the correctness.

Rates, rebates and abatements

Duty Rate

No change in the current standard rate of 12.5%.

Change in rate of tariff value of articles of apparel, not knitted or crocheted falling under CETH 6201 in Notification No 20/2001-C.E. (N.T.)

Vide Notification No. 11/2016–Central Excise (N.T.),change in rate of tariff value of articles of apparel, not knitted or crocheted falling under CETH 6201 in Notification No 20/2001-C.E. (N.T.) The prescribed rate of 60% of RSP of articles of apparel, not

knitted or crocheted falling under CETH 6201 has been reduced to 30% of RSP.

Proposed changes in rates of abatement of goods

Vide Notification No. 12/2016–Central Excise (N.T.), changes are proposed in rates of abatement of goods in Notification No.49/2008-C.E.(N.T.) assessed under Section 4A of CE Act.

Product	Entry No.	Proposed Change
Soap	39	30% abatement extended to all goods under CETH 3401
Organic surface active agents	40	30% abatement extended to all goods under CETH 3402
Footwear	56	Rate of abatement increased from 25% to 30%
Aluminium foil of thickness not exceeding 0.2 mm.	64A	New entry inserted specifying abatement of 25%
Wrist wearable devices (smart watches)	87A	New entry inserted specifying abatement of 35%
Part, Components and Assemblies of Vehicles	108	Proposed inclusion of "accessories" with existing rate of 30%
Part, Components and Assemblies of goods falling under CETH 8426 41 00, 8427, 8429, 8430 10 with the proposed inclusion of accessories	109	Proposed inclusion of "accessories" with existing rate of 30%

Interest under CE Act reduced to 15%

- Vide Notification No. 15/2016–Central Excise (N.T.), the rate of interest under Section 11AA of the CE Act is proposed to be reduced from the earlier 18% to 15%.
- Vide Notification No. 16/2016–Central Excise (N.T.) and 17/2016–Central Excise (N.T.),the reference of Section 11AB is proposed to be substituted with Section 11AA in consequence to the amendment made under the CE Act in Notification Nos.42/2001-C.E.(N.T.) and 31/2007-C.E.(N.T.).

Amendment to Notification No. 19/2004-C.E. (N.T.) dated September, 6 2004

- One of the conditions for claiming rebate of duty under Rule 18 of the CE Rules on export of goods to countries other than Nepal and Bhutan is proposed to be amended to provide that the Indian market price of the excisable goods at the time of exportation shall not be less than the amount of rebate claimed as opposed to earlier provision that referred to market price.
- In terms of the new amended notification, a claim for rebate of duty paid on all excisable goods will now be required to be lodged with the Deputy / Assistant Commissioner before the expiry of the time prescribed under Section 11B of the CE Act.
- The new condition that the market price to be considered would be the Indian market price is being introduced to overcome the judgment of the Hon'ble Delhi High Court in the case of Dr. Reddy's Laboratories vs. Union of India [2014

(309) ELT (423)]. The application of Section 11B of the CE Act to rebate claimed under Rule 18 of the CE Rules is being introduced to overcome the judgment of the Hon'ble Punjab and Haryana High Court in the case of JSL Lifestyle Limited vs. Union of India [2015 (326) ELT (265)].

Withdrawal of area based exemption benefit available to new industrial unit

Vide Notification No. 5/2016-CE and 6/2016-CE, withdrawal of area based exemption benefit available to new industrial unit [situated at Jammu and Kashmir, Assam, Tripura, Meghalaya, Mizoram, Manipur, Nagaland, Arunachal Pradesh and Sikkim] engaged in production of refined gold or silver which commences the commercial production on or after March 01, 2016 or an existing unit which undertakes substantial expansion of existing capacity.

SSI and other Exemptions :

- Vide Notification No. 8/2016-CE. SSI exemption is applicable to the clearances of articles of jewellery (other than certain specified articles of Chapter Heading 7113) upto INR 6 Crores subject to the condition that clearance of such goods in preceding FY shall not exceed INR 12 Crores. However, threshold limit for the month of March 2016 for the said goods is INR 50 lakhs.
- SSI exemption is applicable to the clearances of goods bearing a brand name or sold under a brand name and having a retail sale price of INR 1000/- and above , falling under Chapter 61, 62 and 63 (except laminated jute bags falling under Chapter Heading 6305, 6309 00 00, 6310), shall be restricted to INR 12.5 lakhs for the month of March 2016.
- Vide Notification No. 11/2016-CE, in respect of 'media with recorded information technology software', exemption from payment of Excise Duty is provided to the extent of taxable value on which Service Tax is leviable under Section 66B read with Section 66E of the Finance Act, 1994 Vide Notification No. 12/2016-CE.
- The validity period of concessional Excise Duty rate of 6% granted to specified goods for the use in manufacture of electrically operated vehicles and hybrid vehicles is being extended [without time limit] Vide Notification No. 14/2016-CE.
- Exemption from payment of Excise duty on machinery/components for setting up of power or bio gas (CNG) generation project using non- conventional materials would also be available, if there is a valid agreement (subject to the satisfaction of Deputy Commissioner / Assistant Commissioner) between importer with urban local body for processing of municipal solid waste vide Notification No. 16/2016-CE, 17/2016-CE and 18/2016-CE.
- There have been various changes in the Excise Duty rate on tobacco products, pan masala, etc.

Clean Energy Cess renamed as Clean Environment Cess

- Vide Notification No. 1/2016-CE -,the Clean Energy Cess has been renamed as Clean Environment Cess.
- The tenth schedule to the Finance Act, 2010 dealing with Clean Environment Cess is amended to increase the schedule rate from INR 300 per tonne to INR 400 per tonne.

- Vide Notification No. 2/2016-CE - Clean Energy Cess , exemption from payment of Clean Environment Cess on coal, lignite or peat produced or extracted as per traditional and customary rights enjoyed by local tribals without any license or lease is extended to the state of Nagaland.

Infrastructure Cess :

Vide Notification No. 1/2016-CE and as per Clause 159 read with the Eleventh Schedule of the Finance Bill, 2016 has proposed to introduce a new levy namely Infrastructure Cess on the motor vehicles falling under Chapter Heading 8703 of CETA. The effective rates of the Infrastructure Cess prescribed vide the said Notification are as under:

Nil Rate	1%	2.5%	4%
1. Three wheeled vehicles 2. Electrically operated vehicles 3. Hybrid vehicles 4. Hydrogen vehicles based on fuel cell technology 5. Motor vehicles which after clearance have been registered for use solely as taxi (subject to prescribed conditions), 6. Cars for physically handicapped persons(subject to prescribed conditions), 7. Motor vehicles cleared as ambulances or registered for use solely as ambulance (subject to prescribed conditions)	Petrol/LPG/CNG driven motor vehicles of length not exceeding 4m and engine capacity not exceeding 1200cc	Diesel driven motor vehicles of length not exceeding 4m and engine capacity not exceeding 1500cc	All categories of motor vehicles other than those listed – Eleventh Schedule of the Finance Bill, 2016

CENVAT Credit Rules, 2004

Amendments in the definitions under Rule 2 of the CCR

"Capital goods" - Rule 2(a)

- ✓ Wagons falling under Sub-heading 860692 have been explicitly mentioned as capital goods. The Hon'ble Tribunal in the case of Bulk Cements Corporation (India) Ltd. Vs. Commissioner of Central Excise [2013 (294) ELT 433 (Tri-Mum)] had held that wagons under Chapter 86 cannot be considered as capital goods.
- ✓ Restriction with regard to 'the equipments and appliances used in an office' has been done away with. The omission of the expression 'but does not include any equipment or appliance used in an office' seeks to expand the ambit of the term capital goods. This is beneficial amendment.

"Exempted service" - Rule 2(e)

In the definition of the term 'exempted service' under Rule 2(e), 'services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India', has been excluded.

"Inputs" - Rule 2(k)

- ✓ The definition of the term 'inputs' has been amended to include within its scope 'capital goods' which have a value upto ten thousand rupees per piece.
- ✓ The amendment clarifies that goods used for the 'pumping of water' would be construed as inputs.

"Input services distributor" - Rule 2(m)

The scope of definition of 'input services distributor' in Rule 2(m) of the CCR has been extended to an office of an 'outsourced manufacturing unit'.

Certain amendment s with respect to utilisation and availment of CENVAT credit

Utilization against the payment of National Calamity Contingent Duty (NCCD)

The 5th proviso to Rule 3(4) provided that CENVAT Credit of any duty except NCCD cannot be utilized for payment of NCCD on goods falling under tariff items 8517, 12 10 and 8517 12 90. However, with effect from March 01, 2016, the 5th proviso to Rule 3(4) has been amended so as to provide that CENVAT Credit of any duty specified in sub-rule (1) except NCCD cannot be utilized for payment of NCCD leviable under Section 136 of the Finance Act, 2001 on any product.

Amendments in Rule 4

- ✓ The facility of hundred per cent CENVAT Credit of capital goods as available to small scale industrial manufacturer having clearance within the threshold limit of INR 4 Crore is also extended to the Gems and Jewellery Sector. However, the threshold limit for the Gems and Jewellery Sector has been pegged at INR 12 Crore.
- ✓ CENVAT Credit on jigs, fixtures moulds and dies or tools sent to a job worker or another manufacturer would also be allowed where such goods are sent without bringing the same to the premises of the Assessee.

In Eaton Fluid Power Ltd. vs. Commissioner [2014 (308) ELT 602 (Tri-Mum)], the Hon'ble Tribunal has held that availment of credit in respect of materials directly purchased/received by the job worker without receiving the goods in their premises was implied and not explicitly provided in the CCR. By the substitution of sub-rule (5) of Rule 4, this has been explicitly provided to avoid any confusion in this regard.

- ✓ Order issued under Rule 4(6) allowing the final products to be cleared from the premises of the job worker would be valid upto 3 years as against existing 1 year.
- ✓ Rule 4(7) provides that CENVAT Credit of Service Tax in respect of services provided by way of assignment of "right to use" any natural resources shall be spread over the period for which the "right to use" has been assigned under Straight Line Method.
    - Formulae: Amount of CENVAT Credit that shall be taken in a financial year = Service Tax paid on the charges payable for the assignment of the right to use / No. of Years for which the rights have been assigned
    - Full credit available in case such rights are further assigned to another person against a consideration
    - In respect of annual or monthly user charges, the credit shall be allowed in the same FY in which they are paid.

Amendments in relation to reversal of CENVAT credit under Rule 6

Rule 6 has been substantially amended with a view to remove certain ambiguities and associated litigation in relation to apportionment of credits towards manufacture of exempted goods or for provision of exempted services. The key amendments under Rule 6 are set out below:

Mechanism for reversal of CENVAT Credit towards exempted goods and exempted services

Pursuant to the amendments made in Rule 6, inadmissible credits with respect to exempted goods and services is to be calculated in terms of provisions of sub-rule (2) or, sub-rule (3) of Rule 6, summarized as follows:

- ✓ Manufacturers exclusively engaged in manufacturing of exempted goods or service providers who exclusively provide exempted services shall not be eligible for credit of any inputs and input services [sub-rule 6(2)];
- ✓ Manufacturers engaged in manufacturing both exempted and non-exempted goods or service providers engagedvin providing both exempted and non-exempted services, can follow any one of the following options for reversal of ineligible CENVAT Credit [sub-rule 6(3)]
    - pay an amount equal to six per cent of value of the exempted goods and seven per cent of value of the exempted services. However, such payment is restricted up to the total credit available with the assessee at the end of the period to which the payment relates.
    - pay an amount of ineligible CENVAT Credit as determined under sub-rule (3A) (i.e. proportionate reversal) by sequentially following the steps mentioned hereunder:
        - Ineligible Credit [A]: CENVAT Credit attributable to inputs and input

services used exclusively in or in relation to the manufacture of exempted goods / exempted services to be treated as ineligible credit and shall be reversed;

- Eligible Credit [B]: CENVAT Credit attributable to inputs and input services used exclusively in or inrelation to the manufacture of non-exempted goods / non-exempted services to be treated as eligible credit and shall not have to be reversed;
- Common Credit [C = Total Credit less A less B]: CENVAT Credit left after attribution of the above eligible and ineligible credits shall be called as "common credits". Out of common credit, credit proportionately attributable towards value of exempted goods / services is to be treated as ineligible common credit and shall be required to be reversed and balance may consequently be availed.
- The formula to be applied to calculate 'ineligible common credit' denoted as D shall be D = (E/F) X C.
- Where E is the sum total of – (a) value of exempted services provided and (b) value of exempted goods removed; and where F is the sum total of – (a) value of non-exempted services provided, (b) value of exempted services provided, (c) value of non-exempted goods removed, and (d) value of exempted goods removed.

Rule 6 has been rationalized with the view to provide more clarity. The amendment which seeks to prescribe that payment at six / seven percent would not exceed the amount of CENVAT Credit available, is a welcome step, and is in line with the decisions of the Tribunal inter alia in the case of Sirpur Paper Mills Ltd. vs. Commissioner of C. Ex., Hyderabad [2006 (205) ELT 188 (Tri. - Bang.)]. However, it is worthwhile to note that even after discharging six / seven percent of the value of exempted goods / services, CENVAT Credit with respect to inputs / input services exclusively used for exempted goods / services continues to be separately ineligible in tandem with the erstwhile Rules.

The amendment necessitates identification of those input services which have been used exclusively for non-exempted goods or non-exempted services, else the CENVAT Credit towards such input services would form part of common credit pool and therefore would result in higher reversal / payment of CENVAT Credit.

Further, there were doubts as to whether for the purposes of the computation of the proportionate credit as prescribed under Rule 6(3A), the ratio is to be applied to the amount of 'total credit' or to 'common credit'. This resulted in various disputes, wherein the authorities initiated proceeding against those computing reversal based on common credit. In the case of Thyssenkrup Industries Pvt. Ltd. vs. CCE [2014 (310) ELT 317 (Tri-Mum)], the Hon'ble Tribunal expressed the prima facie view that in terms of sub-rule (3A), the ratio is to be applied on total credit and not on common credit. It may be noted that Explanation 3 to the substituted sub-rule 6(1) provides that an activity which is not a service as defined in Section 65B(44) of the Act is also to be construed as 'exempted services'. This amendment is intended to align 'services' with last year's amendment (2015-16) qua 'goods' whereby 'non-excisable goods' were

considered as exempted goods. Consequently, service providers would be required to reverse proportionate CENVAT Credit towards such activities which are not services under Section 65B(44) of the Act.

- ✓ Banking and financial institutions can now exercise any of the options under the Rules for reversal of CENVAT Credit in addition to option of payment of 50% of the CENVAT Credit

  Sub-rule (3B) of the Rule 6 has been amended, whereby a banking and financial institution including non-banking financial company, engaged in providing services by way of extending deposits, loans or advances, will have the following options for reversal of CENVAT Credit:

  - Reversal in terms of amended Rule 6(3) i.e. seven percent of value of the exempted services or
  - Proportionate reversal under Rule 6(3A) or
  - Pay for every month an amount equal to 50% of the CENVAT Credit availed on inputs and input services in the month.

Key procedural aspects regarding proportionate reversal of CENVAT Credit under Rule 6(3A)

Similar to the existing scheme, the above payments under Rule 6(3A) is to be undertaken provisionally every month based on values of the preceding FY. An amount equal to difference between provisional ineligible credits and actual ineligible credits (based on actual values) shall be required to be paid (on or before the 30th June of the succeeding FY) along with interest at 15% (earlier 24%) with respect to shortfall, if any.

- ✓ As regards reversal on provisional basis during the year, in case where no final products were manufactured or no output service was provided in the preceding FY, CENVAT Credit attributable to ineligible common credit shall be deemed to be 50% of the common credit pool. This is in contrast with the existing scheme, where in such circumstances the manufacturer / service provider is required to undertake reversal on actual basis only on or before the 30th June of the succeeding financial year.
- ✓ Sub-rule (3AA) have been inserted under Rule 6 to provide that where a manufacturer or a provider of output service has failed to exercise the option under sub-rule (3) and follow the procedure provided under sub-rule (3A), the jurisdictional Central Excise Officer, may, at his discretion, based on amount of CENVAT Credit involved, allow proportionate reversal in terms of Rule 6(3A) with interest calculated at the rate of 15% per annum from the due date till the date of payment thereof. The Hon'ble Tribunal in the case of Mercedes Benz India Pvt. Ltd. vs. CCE, Pune -1 [2015 40 STR 381 (Tri. – Mum.)] held that Revenue cannot insist on availment of a particular option and procedural lapse in intimation to avail option under Rule 6 would not disentitle the assessee to opt for the exercise of option as per Rule 6(3A)(ii). The new sub-rule (3AA) is in line with the said decision. However, it is subject to the discretion of the Central Excise Officer.

  No CENVAT Credit can be allowed on capital goods used exclusively for exempt activity for a period of two years from the date of commercial production or provision of services

- ✓ Sub-rule (4) of Rule 6 has been amended to provide that where the capital goods are used for the manufacture of exempted goods or provision of exempted service for two years from the date of commencement of commercial production or provision of service, no CENVAT Credit shall be allowed on such capital goods.
- ✓ Similar provision has been made for capital goods installed after the date of commencement of commercial production or provision of service.

  In respect of capital goods intended to be used for both exempted and non-exempted goods / services, full CENVAT Credit was earlier available in the erstwhile provisions, subject to the condition that the assessee could substantiate that he had the intention to use the capital goods for both the exempted and non-exempted goods / services. The amendment now requires that the capital goods must be used for taxable activities with a period of two years from the stipulated date else the credit would lapse. This amendment is to overcome the decision of Hon'ble Tribunal in case of M/s. Brindavan Beverages Pvt. Ltd. vs. CCE, Meerut [2014-TIOL-2136-CESTAT-DEL], wherein it was held that the usage of the capital goods (irrespective of any time limit) for both taxable and exempted activity is not the requisite criteria to avail the CENVAT Credit on capital goods.

  Reversal not required to be undertaken for services provided by way of transportation of goods from Indian customs station to outside India
- ✓ Rule 6(7) has been amended so as to provide that credit taken on inputs and input services used in providing a service by way of "transportation of goods by a vessel from customs station of clearance in India to a place outside India" shall not be required to be reversed by shipping lines.
- ✓ That the service of transportation of goods by a vessel to a place outside India is presently not taxable in view of Rule 10 of the PPSR, which determines the place of provision of service as the place of destination of the goods. By amending Rule 2(e), services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India has been excluded from the definition of 'exempted service'.
- ✓ Thus, the amendment in sub-Rule (7) coupled with the corresponding amendment in the definition of exempted service is aimed at allowing credit of eligible inputs, input services and capital goods for providing the said service.

Distribution of CENVAT credit on input services under Rule 7

With a view to improve credit flows between different manufacturing / service locations, Rule 7 dealing with distribution of credit on input services by an Input Service Distributor is being completely rewritten by way of substitution of the existing Rule 7 of the CCR. The key features to be noted are set out below:

ISD can now distribute CENVAT Credit to 'outsourced manufacturing units' also in addition to the 'own manufacturing units'

- ✓ Rule 7 has been amended, whereby an Input Service Distributer can now distribute the input service credit to an outsourced manufacturing unit in addition to its own manufacturing units.
- ✓ 'Outsourced manufacturing unit' has been defined to mean either:

- A job-worker who is required to pay duty on the value determined under the provisions of Rule 10A of the Central Excise Valuation (Determination of Price Of Excisable Goods) Rules, 2000, on the goods manufactured for the Input Service Distributor; or
- A manufacturer who manufactures goods, for the Input Service Distributor under a contract, bearing the brand name of the Input Service Distributor and is required to pay duty on the value determined under the provisions of Section 4A of the CE Act.

✓ Outsourced manufacturing unit shall maintain separate account of credit received from each of the Input Service Distributors and shall use it for payment of duty on goods manufactured for the Input Service Distributor concerned.

- The credit of Service Tax paid on input services, available with the Input Service Distributor as on March 01, 2016 shall not be distributed to an outsourced manufacturing unit.

  The Hon'ble Tribunal in the case of Sunbell Alloys Co. Of India Ltd. vs. CCE, BELAPUR [2014 (34) STR 597 (Tri. - Mumbai)] denied the availment of CENVAT Credit by a jobber against the ISD invoice issued by the principal manufacturer. The amendment has the effect of overcoming the impact of the said decision. The amendment is a forward step in extending the benefit to job-workers/manufacturer and ensuring the free flow of credits.

Reversal of CENVAT credit under Rule 6 not to apply to the input service distributor

In terms of clause (g) of Rule 7, the provisions of Rule 6 of the CCR relating to reversal of credit in respect of inputs and input services used in manufacture of exempted goods or for provision of exempted services, shall not apply to the ISD. Earlier, there prevailed doubts as to the inter-play between the operation of Rule 6 and Rule 7. It was not clear whether the amounts are to be distributed firstly as per Rule 7 and then, the CENVAT Credit entitlement under Rule 6 is to be determined by the recipient unit to whom the credit has been distributed. The amendment seeks to dispel the confusion by unambiguously stating that Rule 6 is not to be applied by an ISD while distributing the credit. It is the unit to whom the credit has been distributed, is to apply Rule 6 upon receiving the distributed credit.

Introduction of input service distribution mechanism for goods vide Rule 7b

✓ Rule 7B has been inserted in the CCR to enable manufacturers with multiple manufacturing units to avail the CENVAT Credit on the basis of Excise invoice issued by the warehouse storing raw material, packing material etc. of the said manufacturer.

✓ Procedure as applicable to a first stage dealer or a second stage dealer would apply, mutatis mutandis, to such a warehouse of the manufacturer.

Rule 7 enables distribution of CENVAT Credit on input services to manufacturing units and units providing output services. Rule 7A deals with the distribution of credit on 'inputs and capital goods by the service provider'. The introduction of Rule 7B for permitting distribution of credit

pertaining to inputs (more particularly on the basis of the principles of FSD or the SSD) is intended to make the code more comprehensive.

Credit can now be availed basis invoice is sued by a 'service provider' for clearance of inputs or capital goods as such

Rule 9(1)(a)(i) has been amended, whereby credit can now be availed basis invoice issued by a 'Service Provider' for clearance of inputs or capital goods as such. Earlier, only the invoice issued by a 'manufacturer' for removal of inputs or capital goods as such was prescribed as valid document for availment of credit.

Annual return

The existing Rule 9A, which required furnishing declaration by 30th April of each financial year by a manufacturer, has been amended. As per the amended Rule 9A, a manufacturer of final products or provider of output services, shall be required to submit to the Superintendent of Central Excise, an annual return in the prescribed format for each financial year, by the 30th day of November of the succeeding year.

Refund of CENVAT credit under Rule 5

The time limit for filing of application for refund of Cenvat Credit in Form A of under Rule 5 of CCR has been amended vide Notification No. 14 / 2016 – C.E. (N.T) dt. March 01, 2016.

- ✓ In case of a 'manufacturer' , the time limit to file a refund claim will be as per the period specified in Section 11B of the CE Act, 1944 (1 of 1944);
  - In case of 'services provider', the time limit will be one year from the date of; Receipt of payment in convertible foreign exchange where the provision of services has been complete prior to receipt of payment; or
  - The date of issue of invoice, where payment for the service has been received in advance prior to the date of issue to invoice

  Earlier, the time limit for filing of the refund claim was prescribed with reference to Section 11B of CE Act. The amendment in the notification seeks to separately and explicitly provide the manner of computation of time limit in respect of service providers.

Customs

Legislative Amendments:

Amendments in Customs Act relating to Warehousing

- Definition of "Warehouse" is proposed to be amended to include a special warehouse under newly introduced Section 58A of Customs Act.
- Concept of "Warehousing Station" under Section 9 of the Customs Act is proposed to be done away with.
- Sections 57 and 58 dealing with appointment of public warehouses and licensing of private warehouses, respectively are being substituted to provide for licensing by the Principal Commissioner of Customs/ Commissioner of Customs instead of Deputy / Assistant Commissioner of Customs.
- Section 58A is proposed to be introduced to provide for licensing of "special warehouse" where certain classes of goods will required to be stored under physical control.
- Section 58B is being introduced to regulate the process of cancellation of licenses granted under Sections 57, 58 and 58A.
- Section 59, which deals with a Warehousing Bond, is proposed to be substituted to fix the bond amount at thrice the amount of the duty instead of twice the amount and requires the importer to furnish security in addition to the Bond.
- Section 60 which deals with permission of deposit of goods in a warehouse is proposed to be substituted to provide for the proper officer to pass an order, permitting removal of goods from a Customs Station for deposit in a Warehouse.
- Section 61 which deals with period for which goods may remain warehoused is proposed to be substituted to extend the period of warehousing not only to 100% EOUs, both also to units under EHTP and STPs. The provisions relating to period of 5 years in respect of capital goods and 3 years in respect of goods other than capital goods is proposed to be done away with. Further, the Principal Commissioner of Customs/ Commissioner of Customs will have the power to extend the warehousing period by 1 year at a time.
- Section 62 which dealt with physical control over warehoused goods is proposed to be omitted as the conditions for licensing of Warehouses and control over the same is proposed to be provided under Sections 57, 58 and 58A.
- Section 63 which dealt with payment of rent and warehouse charges at rates fixed under any law or by the Principal Commissioner of Customs / Commissioner of Customs is proposed to be omitted. Therefore, the rates of warehouse rent and warehouse charges will no longer be fixed and will now be subject to market determination.
- Section 64 which deals with the owner's right to deal with warehoused goods is proposed to be substituted to rationalize the rights of the owner. Further, the right of the owner to take sample of goods without entry for home consumption

and without payment of duty is proposed to be omitted.

- Section 65 which deals with permission to manufacture and carry out other operations in relation to goods in the warehouse, is proposed to be amended to replace the Deputy / Assistant Commissioner of Customs with the Principal Commissioner of Customs / Commissioner of Customs. Further, the payment of fees to the custom authorities for supervision of manufacturing facilities under Bond is proposed to be done away with.
- Sections 68 and 69 which deal with clearance of warehoused goods for home consumption and exportation, respectively are proposed to be amended to omit the conditions of payment of rent and other charges.
- Section 71 which deals with goods which are not to be taken out of a Warehouse, except as provided is proposed to be amended to substitute the word "exportation" by the word "export" to bring the same in line with the definition of export under Section 2(18).
- Section 72 which deals with goods improperly removed from a warehouse is proposed to be amended to omit the conditions of payment of rent and other charges and align the same with the amendment to Section 64 relating to taking of samples.
- Section 73 which deals with cancellation and return of Warehousing Bond, is proposed to be amended to provide for cancellation of a Bond pursuant to transfer of the goods to another person.
- Section 73A is proposed to be introduced to provide for the duties and responsibilities of the person who has been granted a Warehousing License under Sections 57, 58 and 58A.
- The proposed amendments to various provisions relating to warehousing vide which the Principal Commissioner of Customs/ Commissioner of Customs have been appointed as the decision making authority, is a welcome step, in as much as, it will speed up the decision making process.

Period of the limitation

Section 28 is proposed to be amended to increase the period of limitation from 1 year to 2 years in cases not involving fraud, suppression, mis-statement, etc. Further, the expression "duties not levied or short-levied" has been substituted with "duties not levied or not paid or short-levied or short paid" in the said Section.

Clearance of goods for home consumption and clearance of goods for exportation

Sections 47 and 51 which deal with clearance of goods for home consumption and clearance of goods for exportation, respectively are proposed to be amended to provide for deferred payment of customs duties to importers and exporters with a proven track record. Further, where an exporter fails to pay export duty by the due date, he will be required to pay interest at the prescribed rate.

Transit of goods without payment of duty is proposed

Section 53 dealing with transit of goods without payment of duty is proposed to be amended to enable the Board to frame regulations in relation to the same.

General Power to make Rules

Section 156 which deals with the general power to make rules is proposed to be amended to incorporate the power to make rules relating to due date and manner of

making deferred payment of duties, taxes, cesses or any other charges under Sections 47 and 51.

New Baggage Rules, 2016

Vide Notification No. 30/2016-Customs (N.T.) Substitution of the the existing Baggage Rules, 1998 are proposed to be substituted with the Baggage Rules, 2016 in order to simplify and rationalize the various slabs of duty free allowance for various categories of passengers. These new Rules will come into effect from April 01, 2016.

- The distinction between a passenger returning after a stay abroad of less than 3 days or more than 3 days is proposed to be removed.
- The new Rules propose to provide that any passenger over 2 years of age will be entitled to the duty free allowances as opposed to the earlier age limit of 10 years and above.
- The duty free allowance of INR 45,000 for passengers coming from countries other than Nepal, Bhutan or Myanmar is proposed to be enhanced to INR 50,000 in the case of an Indian resident, a foreigner residing in India or a tourist of Indian origin. In the case of a tourist of foreign origin the duty free allowance is proposed to be reduced to INR 15,000.
- The duty free allowance of INR 6,000 from Nepal, Bhutan or Myanmar is proposed to be enhanced to INR 15,000.
- In case of jewellery brought to India by a passenger who has stayed abroad for more than 1 year, an additional condition in respect of the weight is proposed to be prescribed i.e. 20 grams in case of gentlemen passengers and 40 grams if brought by lady passengers.
- A slab system of duty free allowances of personal and household articles in respect of a person transferring his residence to India is proposed to be introduced to provide for duty free allowance depending on the duration of stay abroad ranging from INR 60,000 to INR 5,00,000. The distinction between a passenger returning after a stay abroad of less than 3 days or more than 3 days is proposed to be removed.
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- In terms of the old Baggage Rules, the lower duty free allowance of INR 6,000 was applicable to countries such as Nepal, Bhutan, Myanmar and China. However, in terms of the new Baggage Rules, the lower limit of duty free allowance of INR 15,000 is applicable only to Nepal, Bhutan and Myanmar. Accordingly, in respect of a passenger returning from China, a higher duty free allowance of INR 50,000 would be applicable.

Amendment to the Customs Baggage Declaration Regulations, 2013

Vide Notification No. 31/2016-Customs (N.T.), the Customs Baggage Declaration Regulations, 2013 is amended - The Customs Baggage Declaration Regulations, 2013 are proposed to be amended with effect from April 01, 2016, to provide that only those passengers who come to India and have anything to declare or are carrying dutiable or prohibited goods will be required to file a declaration in terms of the said amended Regulations.

The Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 introduced

Vide Notification No. 32/2016-Customs (N.T.), there is supersession of the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 with the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016

- The Rules propose to simplify the procedure in as much as a manufacturer intending to avail the benefit of an exemption notification issued under Section 25 of the Customs Act will no longer be required to obtain a specific registration from the jurisdictional Central Excise Officer, to claim exemption under the aforesaid Rules. A manufacturer will now only be required to make a self-declaration, setting out details such as the name, address, details of excisable goods produced and the nature and description of the imported goods used in manufacture.
- A manufacturer obtaining benefit of these Rules can re-export the unutilized or defective imported goods within 3 months from the date of import as opposed to 6 months in the earlier Rules.
- This proposed amendment is a move towards removal of obtaining registrations / permissions and making it easier for manufacturers to import goods and use the same in the manufacture of goods in India. However, the restriction of the time limit of 3 months as opposed to the earlier 6 months within which un-utilised or defective goods may be re-exported may create practical difficulties for a manufacturer.

Interest under Section 28AA of the Customs Act reduced

Vide Notification No. 33/2016-Customs (N.T.), interest under Section 28AA of the Customs Act reduced to 15% The rate of interest under Section 28AA of the Customs Act is proposed to be reduced from the earlier 18% to 15%.

Process of Union Budget

✓ **What does the Union Budget contain?**

The Union Budget is our country's annual financial statement of receipts and expenditures for the coming financial year similar to an individual's personal cash flow statement but prepared on an annual basis. It contains the expected revenues to be received and expected expenditures to be met in the coming financial year by the Government of India. It is supposed to be an indicator of the economic growth and the financial well being of our country.

✓ **When is the Union Budget presented?**

The presentation of the Union Budget is usually done on the last working day of February. However, in case of the last working day falls on a Sunday it is presented on the day before last working day.

✓ **Who prepares Government's annual budget?**

There's a separate division in the Ministry of Finance called as the 'Budget Division' to look after the preparation of the Budget.

✓ **Budget process?**

Here are the various stages through which the Union Budget goes through before it is passed in the lower house of Parliament (Lok Sabha) after which the President of India signs it and it becomes an Act:

- ✓ Every year, the 'Budget Division' under the Ministry of Finance is responsible for the preparation of the budget. All government ministries & departments send in their funds' proposals and requirements.
- ✓ Based on the inputs, a Draft Budget is prepared.
- ✓ The draft budget is then approved by the Finance Minister in consultation with the Prime Minister.
- ✓ A final budget is then presented in the Parliament.
- ✓ A discussion on the budget is held in the Parliament regarding each ministry's grant proposals and Finance Minister responds to questions. Revision of tax (direct & indirect) proposals are also discussed & voted upon here.
- ✓ Once the grants are approved, two bills 1) Appropriation Bill (final approval of funds to be given to each ministry, and 2) Finance Bill (tax proposals) are introduced in the Lok Sabha. Union Budget is then approved.

JLN US & Co.
Chartered Accountants

330/348, Third Floor, Tower A, Atlantis K-10, Opp. Vadodara Central
Sarabhai Main Road, Baroda- 390007, Gujarat, India
+91 265 2311146, 6544871 +91 94260 75397
abhishek.nagori@jlnus.com
www.jlnus.com

M J Parsiya & Co.
Chartered Accountants

210, Kashivishveshwar Flats, Tower - 5, B/h. Swagat Restaurant
Jetalpur Road, Alkapuri, Vadodara - 390007 Gujarat, India
+91 265 2352788, 2341440 +91 98251 10620
mjparsiya@gmail.com
www.mjparsiya.com

Maloo Bhatt & Co.
Chartered Accountants

204-07, Parshwa Complex, Ellorapark
Subhanpura, Vadodara - 390 023 Gujarat, India
+91 265 2392631 +91 99243 88339
yash_bhatt1@yahoo.com

Parikh Mehta & Associates
Chartered Accountants

PMA House, 2, Gokhle Colony, Opp. Veraimata Temple
Urmi - Dineshmill Road, Akota, Vadodara-390 020 Gujarat, India
+91 265 2343615, 2320336 +91 98252 31545
ashish@parikhmehta.com / rupesh@parikhmehta.com
www.parikhmehta.com

Viral K Shah & Associates
Chartered Accountants

Kshitij, Level 3, Opp. R. C. Patel Estate
Nr. Akota Garden, Akota, Vadodara - 390 020 Gujarat, India
+91 265 6589090 +91 98243 62211
vkshah3@gmail.com

Technical Contributors

CA. Abhishek Nagori
CA. Ashish Parikh
CA. Chandrika Parsiya
CA. Manilal Parsiya
CA. Neena Patel
CA. Nishit patel
CA. Rachit Somani
CA. Sachin Mehta
CA. Viral shah
CA. Yash Bhatt