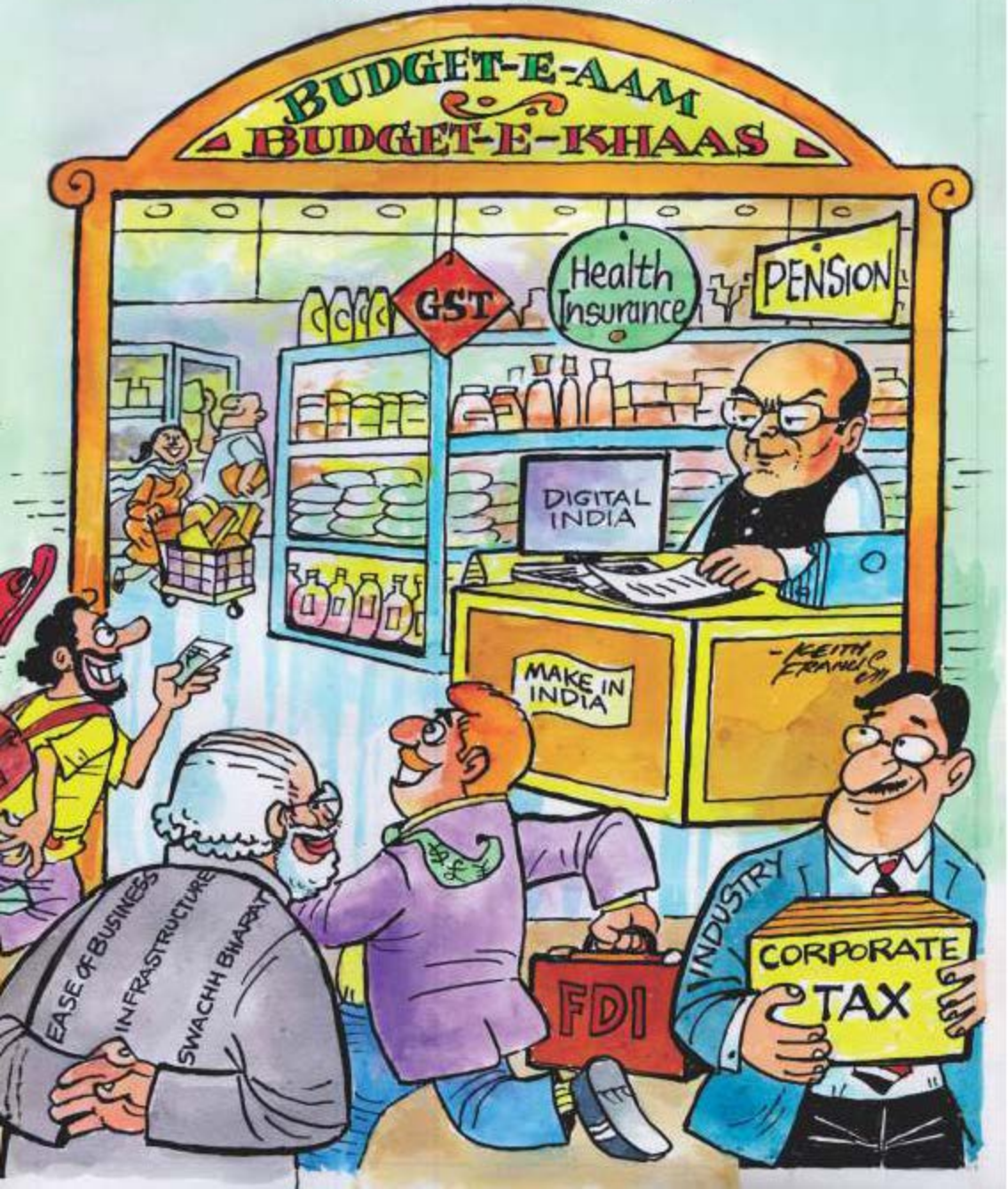
22nd year of Publication

Bombay Chartered Accountants' Society

THE UNION BUDGET

2015 - 16 – AN ANALYSIS



ABOUT THE COVER

The past:

Policy paralysis, lack of direction, weak leadership, falling credibility and fear of failing economy.

The setting:

Strong mandate, decisive leadership, grand vision, image of pro-rich, great track record, successful prototype, positive changing global environment and a chance of a lifetime to make history.

The questions:

Will this be a special (khaas) budget or an ordinary (aam) budget?
Will this be a budget for the common (aam) man or for the elite (khaas)?
Will the swachch bharat abhiyan be a lip service or extend to the economic and financial environment too?

The first impression:

The intent is khaas but are the measures khaas? The sound bites are drumming for an attempt to include the Aam into the grand plan. But is it enough? Really anything out of the ordinary for the poor? Anything substantial? Or is it too early to expect too much?

The broom (not to be confused here with any party's symbol) is certainly moving towards the filth of corruption. The heap is not only large but has also seeped deep. Is the broom large enough? Is the hand holding it strong enough?

A nation of thinkers, innovators, scholars and ideators. Faltered in execution. Partly due to attitude, largely due to the environment. 'Ease of doing business' is a small part of the larger challenge of 'Ease of doing anything'. Right from getting rations, opening bank accounts, getting admissions, filing returns, getting refunds, getting driving licences, getting quality and timely medical service to so many khaas issues of the aam aadmi. Are these being addressed?

While fresh investments in infrastructure is belated but welcome, what about the quality of whatever little is being done? Potholes for the aam and VIP movements for the khaas?

Here's wishing that the sweet mangoes (aam) of labour are equally for the aam and the khaas.

The refurbishing is over. The shop is now open for business.

Cover Concept : Narayan Varma and Naushad Panjwani

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The Union Budget
– An Analysis 2015-16

Analysis of Important Amendments

DIRECT TAXES		
Arvind Dalal	Narayan Varma	Pinakin Desai
Rajan Vora	Kishor Karia	Shariq Contractor
Gautam Nayak	Sanjeev Pandit	Ameet Patel
Kirit Kamdar	Anil Doshi	Nina Kapasi
Sonalee Godbole	Jagdish Punjabi	Ganesh Rajgopalan
Bhadresh Doshi	Yogesh Thar	Rajesh Kothari
INDIRECT TAXES		
Govind Goyal	Pranay Marfatia	Hasmukh Kamdar
Puloma Dalal	Samir Kapadia	Bakul Mody
Rajkamal Shah	Bharat Shemlani	Naresh Sheth
Suhas Paranjpe	Mandar Telang	Jayesh Gogri

DIRECT TAXES

- All amendments proposed in The Finance Bill, 2015, would be effective from Assessment Year 2016-17 unless specifically mentioned otherwise.
- In this booklet all proposals of The Finance Bill, 2015 are referred to as if the amendments have been actually made.

Tax Rates

1. Tax Rates for Individuals, HUFs, AOP & BOI, Co-operative Societies, Firms and Companies

There are no changes in the tax slabs, rates of income tax or rates of Education Cess and Secondary and Higher Education Cess. The Finance Minister has in his budget speech mentioned that the corporate tax rate will be reduced from 30% to 25% over the next four years which shall be accompanied by rationalisation and removal of various tax exemptions and incentives for corporate taxpayers. Presently, however, surcharge is increased as under, except in the case of foreign companies.

2. Rate of Surcharge

Surcharge rates are as mentioned below:

Total Income	Individuals, HUFs, AOP, BOI, Co-op. Societies & Firms		Domestic Companies		Foreign Companies	
	A.Y. 2015-16	A.Y. 2016-17	A.Y. 2015-16	A.Y. 2016-17	A.Y. 2015-16	A.Y. 2016-17
Up to ₹ 1 crore	NIL	NIL	NIL	NIL	NIL	NIL
Above ₹ 1 crore and up to ₹ 10 crore	10%	12%	5%	7%	2%	2%
Above ₹ 10 crore	10%	12%	10%	12%	5%	5%

Further, surcharge will be applicable at the rate of:

7% for income above ₹ 1 crore and up to ₹ 10 crore & 12% for income above ₹ 10 crore on Minimum Alternate Tax payable by domestic companies (Section 115JB).

12% for income above ₹ 1 crore for Alternate Minimum Tax payable by persons other than companies (Section 115JC),

12% on Dividend Distribution tax (Section 115-O), tax on income distributed by Mutual Funds (Section 115R), tax on Income distributed by Securitization Trusts (Section 115TA) and tax on buy back of unlisted shares of domestic companies (Section 115QA).

The effective maximum marginal tax rates (including surchage and cess), will be as under:

Person	Total Income		
	Upto ₹ 1 crore	**Above ₹ 1 crore up to ₹ 10 crores**	**Above ₹ 10 crores**
Individual, HUF etc.	30.90%	34.608%	34.608%
Firm	30.90%	34.608%	34.608%
Domestic Company	30.90%	33.063%	34.608%
Foreign Company	41.20%	42.024%	43.26%

3. Residential Status – Section 6

Member of Crew of Foreign Bound Ship

An Explanation has been inserted to clause 1 of section 6 to provide that in the case of a citizen of India who is a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed.

This amendment is effective from Assessment Year 2015-16.

Company

An Indian Company is always regarded as resident in India but a company other than an Indian Company (non-Indian Company), is resident in India, if during the previous year, the control and management of its affairs is situated wholly in India.

The requirement as to the control and management of the affairs to be situated 'wholly' in India, in case of a non-Indian Company, has been done away with. It is now provided that a non-Indian Company will be a resident in India, if its Place Of Effective Management (POEM), 'at any time' in the year, is in India. POEM has been defined to mean a place where key management and commercial decisions that are necessary, for the conduct of the business of an entity, as a whole are, in substance made.

This change is stated to be based on the internationally recognised concept for determination of residence of a company incorporated in a foreign jurisdiction and the tie-breaker rulein tax treaties entered into by India. The Explanatory Memorandum mentions that a set of guiding principles to be followed in determination of POEM would be issued, for the benefit of tax payers as well as tax administration.

4. Charitable Entities – Sections 2(15), 11, 13, 139 & 253

Income derived from property held in trust, is exempt under section 11, if such income is applied for charitable purpose. Charitable purpose is defined in an inclusive manner and includes within its ambit advancement of any other object of general public utility. The proviso to the section states that 'any other object of general public utility' shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other

consideration, irrespective of the nature of use or application, or retention, of the income from such activity.

Currently, a charitable trust would not lose exemption under section 11, if the aggregate value of the receipt from such activities is ₹ 25 lakhs or less. Instead of this, it is now provided that the trust would not lose the exemption if:

(i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

(ii) the aggregate receipts from such activities, during the previous year, do not exceed 20% of the total receipts of the trust.

Yoga has now been included as a specific category in the definition of charitable purpose along with education etc. As such, it is now clear that an institution engaged in yoga will not be considered as engaged in the advancement of 'any other object of general public utility'.

Under the provisions of section 11, a charitable or religious trust or institution is required to apply at least 85% of its income derived from property held in trust for charitable or religious purposes in India. 15% of the income can be accumulated indefinitely; however any unspent amount in excess of 15% can either be spent in the immediately following year, or can be accumulated for a period not exceeding five years. Hitherto, the assessee opting to spend the unspent amount in the subsequent year, could do so by filing a simple letter to the Assessing Officer before the time limit allowed under section 139(1) for furnishing the return of income. Now such an option will have to be exercised by filing a prescribed form before the due date for filing the return of income.

If the accumulation is for a period of 5 years, then the trust is required to file the prescribed Form 10 with the Assessing Officer as well as satisfy the requisite conditions in the section. There are various judicial decisions stating that the above Form 10 could be filed at any time before the completion of the assessment. It is now provided that both the return of income as also Form 10 shall have to be submitted before the due date of filing the return of income as specified under section 139(1). If this is not done, the trust will lose the benefit of accumulation and the unspent income may become taxable at the appropriate rate.

Under the existing provisions of section 139, a university or educational institution, hospital or other institution which is wholly or substantially financed by the Government and which is exempt

under clauses (iiiab) and (iiiac) of section 10(23C) was not required to mandatorily file their returns of income. It is now provided that these entities shall also be mandatorily required to file returns of income.

Section 10(23C)(vi) provides that any income received by any university or other educational institution existing solely for educational purposes and not for purpose of profit, which is approved by the prescribed authority, is exempt from tax. Similarly, any income received by any hospital or other institution for treatment of persons suffering from illness or mental defectiveness or treatment of persons during convalescence or persons requiring medical attention, existing solely for philanthropic purposes and not for the purpose of profit, is exempt from tax under section 10(23C) (via), if such institution is approved by the prescribed authority. Presently, the order of the prescribed authority refusing to grant the approval is not appealable. section 253(1) is now amended to provide that the aggrieved assessee shall have the remedy of appeal to the Appellate Tribunal.

This amendment is effective from 1st June, 2015.

5. Taxability in case of indirect transfers – Sections 9, 47, 49, 271G & 285A

Explanation 5 to section 9(1)(i) inserted *vide* Finance Act, 2012 has the effect of bringing within the tax net the transfer of share or interest ("interest") in a foreign company or entity ("entity") by a non-resident outside India, if such interest in the entity derives its value substantially from the assets located in India, commonly referred to as 'indirect transfer'. Presently, it is not clear as to what will constitute "substantial" for the purpose of the above Explanation.

It is now provided that interest in an entity shall be deemed to derive its value substantially from the assets (both tangible and intangible) located in India if the value of such assets (without reducing the liabilities) exceeds ₹ 10 crore **and** if such assets constitute minimum 50% of the value of total assets (without reducing the liabilities) owned by such entity.

It is provided that the value of the assets shall be the fair market value of the assets (to be computed as per the method to be notified in the Rules) as on the date on which the accounting period ends preceding the date of transfer. However, if the book value of the assets as on the date of transfer exceeds the book value as on the aforesaid date by 15%, then the fair market value of the assets as on the date of transfer will be considered.

It is further provided that in case the indirect transfer of interest in the foreign entity is taxable in India, the capital gains thereon shall be computed on a proportionate basis as per the method to be prescribed in the Rules.

However, such indirect transfers will not be taxed in the following cases:

1. Where the non-resident transferor, individually or along with its associated enterprises, at any time in the 12 months preceding the date of transfer of interest in an entity,:

   (i) Neither holds the right of management or control in such entity which directly holds assets in India nor holds right of management or control in such entity which would enable it to right of management or control of the entity which holds assets in India; and

   (ii) Neither holds more than 5% of the total voting power or share capital or interest in such entity directly owning assets in India nor does it hold a percentage of the total voting power or share capital or interest in any entity which results in more than 5% of the total voting power or share capital or interest in the entity directly owning assets in India.

2. Where the transfer of shares in the company takes place during the course of amalgamation or demerger of the transferor company, and

   (i) in case of amalgamation, at least 25% of the shareholders of the amalgamating foreign company continue to remain the share holders of the amalgamated foreign company, and in case of demerger, share holders holding at least 75% in value of shares of the foreign demerged company continue to remain share holders of the resulting foreign company; and

   (ii) such transfer does not attract capital gains in the country in which the amalgamating or the demerged company is incorporated.

If the transfer is exempt under section 47, then the cost of acquisition in the hands of the transferee will be equal to the cost of acquisition in the hands of the transferor by virtue of section 49 and the period of holding of the transferor will also be considered in the hands of the transferee.

It is further provided under section 285A that such interest in a foreign entity derives, directly or indirectly, its value substantially from assets located in India, the Indian entity owning the assets from which such value is derived for the purpose of determining income accruing or arising in India under section 9(1)(i), is required to furnish such information and documents as may be prescribed within the prescribed period. In case of failure to furnish the information as required under section 285A, the Indian entity shall be liable to pay penalty under section 271GA equal to:

(i) 2% of the value of the transaction, if such transaction has the effect of directly or indirectly transferring the right of management or control in relation to the Indian entity; or

(ii) ₹ 5 lakhs in other cases

unless the Indian entity proves that there was a reasonable cause for such failure.

6. Additional Depreciation – Section 32(1)(ii)/32(1)(iia)

Presently, additional depreciation of 20% is allowed (under section 32(1)(iia) read with second proviso to section 32(1)(ii)) in respect of new plant or machinery (other than ships and aircraft) installed by an assessee engaged in the business of manufacture or production or in the business of generation or generation and distribution of power.

If plant and machinery, eligible for additional depreciation, under section 32(1)(iia) or the newly inserted first proviso to section 32(1)(iia) is put to use for the purpose of business for less than one hundred and eighty days in the relevant year, fifty per cent of additional depreciation shall be allowed in the year in which plant & machinery is put to use and balance fifty per cent shall be allowed in the immediately succeeding year.

7. Special incentive for States of Andhra Pradesh & Telangana – Sections 32(1)(iia) & 32AD

A proviso has been added to sections 32(1)(iia) to allow additional deprecation of 35% instead of 20% in respect of new plant and machinery acquired and installed during the period 1st April, 2015 to 31st March, 2020, to an assessee setting up manufacturing operations on or after 1st April, 2015 in any notified backward area of Andhra Pradesh or Telangana.

Deduction under section 32AD by way of investment allowance is also provided to an assessee setting up manufacturing operations in the notified backward area of Andhra Pradesh or Telangana on or after 1st April, 2015. The deduction to be allowed is 15% of the actual cost of new assets acquired and installed between 1st April, 2015 and 31st March, 2020. The deduction will be allowed in the year in which the new asset is installed. The deduction allowed under this section will be in addition to depreciation, additional depreciation and investment allowance allowable under section 32AC. This deduction is allowable subject to certain conditions, similar to the conditions provided in section 32AC.

However, no deduction is permissible for such allowance in computation of book profit for the purpose of Minimum Alternate Tax under section 115JB.

8. Expenditure on Scientific Research – Section 35

Prescribed authority was required to submit report (i) under proviso to section 35(2AA) in respect of an approval to a programme, under which scientific research is undertaken by a National Laboratory or a University or an Indian Institute of Technology or a specified person, and (ii) under clause (4) of section 35(2AB) in relation to the approval of the research and development facility, to Principal Director General or Director General. These provisions have been amended to enable the prescribed authority to submit such report to Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General.

Clause (3) of section 35(2AB) requires a company claiming deduction for expenditure on scientific research on in-house research and development facility to enter into an agreement with the prescribed authority for co-operation in research and development facility and for audit of accounts maintained for that facility. The requirement of audit of accounts maintained for that facility has now been replaced by the requirement to fulfil conditions to be prescribed with regard to maintenance of accounts and audit thereof and furnishing of reports in the manner as may be prescribed.

9. Transfer of units on consolidation of similar schemes of a Mutual Fund – Sections 2(42A), 47 & 49

Section 47 has been amended to provide that consolidation of two or more similar schemes of mutual funds under the process of consolidation of schemes of mutual funds in accordance with the

Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 will not be treated as a transfer. The consolidation should be of similar schemes i.e. two or more schemes of an equity oriented fund or two or more schemes of a non-equity oriented fund.

Consequently, section 2(42A) and section 49 relating to the period of holding and cost of acquisition, respectively, have been amended to provide that the cost of acquisition of the units of the consolidated scheme shall be the cost of the units in the consolidating scheme and the period of holding of the units of the consolidated scheme shall include the period for which the units in the consolidating scheme were held by the assessee.

The term "consolidating scheme" has been defined as the scheme of a mutual fund which merges under the process of consolidation and "consolidated scheme" as the scheme with which the consolidating scheme merges or which is formed as a result of such merger.

10. Cost of acquisition of a capital asset acquired by a resulting company in the scheme of demerger – Section 49

The provisions of section 49 have been amended to provide that the cost of acquisition of a capital asset acquired by a resulting company in a scheme of demerger shall be the cost for which the demerged company acquired the asset as increased by the cost of improvement incurred by the demerged company. Consequently, the period of holding of the capital asset by the demerged company will be considered in the hands of the resulting company.

11. Tax benefits for a girl child under Sukanya Samriddhi Account Scheme – Sections 10(11A) & 80C

Sukanya Samriddhi Account Scheme which is a special small savings scheme meant for the welfare of the girl child has already been notified under section 80C(2)(viii) *vide* Notification No. 9/2015 dated 21-1-2015.

Now, it is provided that any payment from an account opened in accordance with the Sukanya Samriddhi Account Rules, 2014 shall not be included in the total income of the assessee. The Explanatory Memorandum to the Finance Bill also clarifies that the interest accruing in such account would be exempt.

Deduction under section 80C is available for the amount deposited by an individual in her account or in the account of any

girl child of that individual, or any girl child for whom such individual is the legal guardian.

These amendments are effective from Assessment Year 2015-16.

12. Increase in deduction in respect of contribution to certain pension funds – Section 80CCC

The limit of deduction available to individuals in respect of contribution towards any annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension from a fund set up under a pension scheme has been raised from ₹ 1,00,000 to ₹ 1,50,000.

However, this deduction under section 80CCC is subject to overall cap of ₹ 1,50,000 as provided in section 80CCE, which applies to the aggregate of deductions under section 80C, 80CCC & 80CCD(1).

13. Enhancement of deduction in respect of contribution to National Pension Scheme – Section 80CCD

Section 80CCD allows deduction to individuals in respect of contribution to an account under the National Pension Scheme (NPS).

Section 80CCD(1A), restricting deduction in respect of assessee's own contribution to ₹ 1,00,000, has been deleted. Therefore, an individual can claim deduction under section 80CCD(1) in respect of his contribution to an account under NPS not exceeding 10% of his salary (in case of an employee) or 10% of gross total income (in case of others) but subject to overall cap of ₹ 1,50,000 as provided in section 80CCE.

Sub-section (1B) is now inserted allowing an additional deduction in respect of assessee's own contribution subject to a maximum of ₹ 50,000. This deduction is in addition to the deduction available under sub-section (1). However, for the same contribution, double deduction under sub-section (1) and sub-section (1B) is not available. Further, this additional deduction under sub-section (1B) is neither subject to restriction of 10% of salary or gross total income, nor subject to overall restriction of ₹ 1,50,000 under section 80CCE.

14. Deduction in respect of health insurance premia – Section 80D

Presently, section 80D, *inter alia*, provides for the following deductions to an assessee, being an individual:

(i) upto ₹ 15,000 in respect of health insurance premia of the assessee or his family or any contribution made to the Central Government Health Scheme or any other notified scheme or any payment made on account of preventive health check up of the assessee or his family; and

(ii) an additional ₹ 15,000 is provided to an individual assessee in respect of health insurance of the parents of the assessee.

A similar deduction of ₹ 15,000 is also available to a HUF in respect of health insurance premia of any member of the HUF.

In any of the above cases, if the person insured is a senior citizen then the deduction is available up to ₹ 20,000.

These limits of deduction are intended to be increased from ₹ 15,000 to ₹ 25,000 and from ₹ 20,000 to ₹ 30,000 respectively. The corresponding amendment in the Act has not been proposed in the Finance Bill for the increase from ₹ 15,000 to ₹ 25,000 though it has been mentioned in the Budget Speech and the Explanatory Memorandum.

Further, it is also provided that any payment made on account of medical expenditure in respect of a very senior citizen not exceeding ₹ 30,000 shall also be allowed as deduction. However, such deduction is available only if no payment has been made to effect or keep in force an insurance on the health of such person. Such deduction is available seperately for expenditure either on the assessee or his relatives, and seperately for expenditure on his parents, so long as the person on whom the expenditure is incurred is a very senior citizen. The aggregate deduction available to any individual in respect of health insurance premia and the medical expenditure incurred on himself and his relatives would however be limited to ₹ 30,000. Similarly, aggregate deduction for health insurance premia and medical expenditure incurred in respect of parents would be limited to ₹ 30,000. Similar benefit of deduction is also available to an HUF.

15. Deduction in respect of medical treatment of specified diseases – Section 80DDB

Deduction in respect of expenditure incurred for the medical treatment of specified diseases is currently available to individuals

and HUFs, subject to obtaining a certificate from a specialist working in a Government hospital. This requirement of obtaining a certificate from a specialist working in a Government hospital has been relaxed by a requirement of obtaining a prescription for such medical treatment from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist as may be prescribed, who may not necessarily be working in a Government hospital.

Further, if such expenditure is incurred in respect of the medical treatment of a very senior citizen then a deduction of up to ₹ 80,000 is now provided.

16. Deduction in respect of persons with disability and severe disability – Sections 80DD & 80U

Section 80DD allows deduction to an assessee who incurs expenditure for the medical treatment, training and rehabilitation of a dependent with disability.

Section 80U allows deduction to a person with disability.

The quantum of deduction which can be claimed has been enhanced from ₹ 50,000 to ₹ 75,000 in both sections, in case of person suffering from a disability. Also, for persons suffering from severe disability, the quantum of deduction in both sections, have been enhanced from ₹ 1,00,000 to ₹ 1,25,000.

17. Swachh Bharat Kosh, Clean Ganga Fund, etc. – Sections 10(23C)(iiiaa), 10(23C)(iiiaaa) and 80G

Considering the national importance of Swachh Bharat Kosh and Clean Ganga Fund, donations made to Swachh Bharat Kosh and donations made by resident donors to Clean Ganga Fund shall be eligible for 100% deduction from the gross total income. These donations are not subject to limit of 10% of gross total income. However, any sum donated by companies in pursuance of Corporate Social Responsibility shall not qualify for these deduction.

Income of Swachh Bharat Kosh and Clean Ganga fund are eligible for exemption u/s. 10(23C)(iiiaa) and 10(23C) (iiiaaa).

These amendments are applicable from A.Y. 2015-16.

Donations made to National Fund for Control of Drug Abuse shall qualify for 100% deduction from total income. This donation is also not subject to limit of 10% of gross total income.

18. Deduction for employment of new workmen – Section 80JJAA

At present, section 80JJAA grants deduction to an Indian company deriving profits from manufacturing of goods in a factory. The quantum of deduction allowed is equal to 30% of additional wages paid to the new regular workmen employed by the assessee in such factory in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided. Additional wages are defined (subject to other conditions mentioned therein) to mean the wages paid to new regular workmen in excess of 100 workmen employed during the previous year. This limit of 100 is now reduced to 50. This deduction is now extended to non corporate entities also.

At present, no such deduction is available if the factory is hived off or transferred from another existing entity or acquired by the assessee company as a result of amalgamation. The deduction is now not allowed where the factory is acquired by way of transfer from any other person or as a result of any business reorganisation.

19. Domestic Transfer Pricing – Section 92BA

Section 92BA is amended to increase the threshold limit for applicability of provisions relating to Domestic Transfer Pricing from ₹ 5 crore to ₹ 20 crore.

20. Income of Alternate Investment Funds – Sections 10(23FBA), 10(23FBB), 115UB & 197A(1F)

A new chapter has been introduced in respect of Investment Funds – a category of pooled-in investment vehicles for start-ups, social venture, infrastructure, SMEs, etc.

Investment Fund means Category I or Category II Alternate Investment Fund regulated under SEBI (AIF) Regulations. These funds can be set up as a trust, company, limited liability partnership or any other form of body corporate. These funds have been accorded a pass through status, i.e. income will not be chargeable to tax in the hands of the fund but in the hands of the unit holders. However, the pass through status will not apply in respect of income from profits and gains of business of the fund. As such, business income will be taxed in the hands of the fund, and not in the hands of the unit holder.

The fund will be liable to deduct tax at the rate of 10% on payments made to investor (other than income exempt in the hands of investors) as provided in the newly inserted section 194LBB. The

income received by the investment fund would be made exempt from TDS requirement by notification to be issued under section 197A(1F).

In case of a loss at the fund level, such loss shall not be allowed to be passed through to the investors but would be carried forward at fund level to be set off against income of the next year in accordance with the provisions of Chapter VI.

These provisions provide the much needed clarity relating to taxation of such funds.

The above provisions do not apply to venture capital funds registered under the SEBI (VCF) Regulations, 1996 to whom the exisiting provisions of section 10(23FB) and Chapter XII-F will continue to apply.

21. General Anti Avoidance Rules (GAAR) – Section 95

GAAR provisions were mandated to be applicable from financial year 2015-16. However, the implementation of GAAR has been reviewed on account of concerns expressed in various quarters. Further, the introduction of GAAR is now sought to be synchronised with the Base Erosion and Profit Shifting project under OECD. Accordingly, the implementation of GAAR has been deferred by two years and will now be made applicable to income of the financial year 2017-18 and subsequent years. The Finance Minister has stated that investments made up to 31-3-2017 will be protected from applicability of GAAR through appropriate amendments to the relevant Rules.

22. Business Trusts – Real Estate Investment Trust (REIT) and Infrastructure Investment Trust (INVIT) – Sections 2(13A), 10(23FCA), 10(38), 111A, 194-I & 194LBA

Section 2(13A) which defines the term 'business trust', has been substituted. The amended definition makes a reference to specific regulations of Securities and Exchange Board of India and does not require the Business Trust to be notified by the Central Government.

Section 47(xvii) currently provides that the transfer of shares of a Special Purpose Vehicle (SPV) to a Business Trust by a share holder (Sponsor) in exchange of units allotted by the trust to the share holder is not considered as a transfer for the purpose of capital gains in the hands of the share holder. For the purpose of determining the holding period of such units, the period for which the shares(s) are / were held by the Sponsor is also taken into

consideration vide clause (hc) of section 2(42A). Similarly, the cost of acquisition of the share(s) is deemed to be the cost of such units to the Sponsor *vide* section 49(2AC).

Section 10(38) has now been amended to provide that the long term capital gain from transfer of such units will be exempt. Section 111A has also been amended to provide that short term capital gains arising on transfer of such units of a Business Trust shall be charged to tax at the rate of fifteen per cent. As such, the restriction contained in these sections in this respect have been removed.

Therefore, units received by a 'Sponsor' in exchange of shares of a SPV, are now at par with other units of a Business Trust. Further, STT @ 0.2% is now chargeable on sale of unlisted units of a Business Trust under an Offer for Sale. Therefore, Sale of such unit in an offer for sale will qualify for exemption under section 10(38) and the concessional rate of tax in respect of short term capital gains under section 111A.

REIT has been granted pass through status also in respect of income by way of renting or leasing or letting out any real estate asset owned directly by the REIT, by granting exemption to the REIT under section 10(23FCA) and taxing such income in the hands of the unitholder, by amending section 115UA(3) to provide that the distributed income, of the nature referred to in section 10(23FCA), received by a unit holder during the previous year shall be deemed to be the income of the unit holder and shall be charged to tax as his income of the previous year. Consequential amendments have been made in relation to TDS provisions in sections 194I and 194LBA, which are effective from 1st June, 2015.

23. Rate of Tax for Royalty and Fees for Technical Services – Section 115A

The rate of income-tax on royalty and fees for technical services in section 115A was increased from 10% to 25% by the Finance Act, 2013 with effect from A.Y. 2014-15.

This rate of income-tax is now restored to 10%.

24. Computation of book profits for MAT liability – Section 115JB

Share in income of AOP/BOI:

Where a company is a member of an AOP, then its share in the income of an AOP or BOI, which is not taxable in accordance

with section 86, is now to be excluded from Book Profit while computing the MAT liability of the member under section 115JB if such share is credited to the profit and loss account.

As a corollary, any expenditure debited to the profit and loss account, relatable to such income is also required to be added back to the "Book Profit".

Capital gains arising to an Foreign Institutional Investors (FIIs) from securities transactions:

Capital gains arising from transactions in securities are to be reduced from the Book Profit while computing the MAT liability under section 115JB if these are credited to profit and loss account. This amendment applies only to an FII as defined under section 115AD which include a Foreign Portfolio Investor. However, short-term capital gains arising on transactions, on which securities transaction tax is not chargeable, are not to be reduced from the Book Profit.

As a corollary, any expenditure debited to the profit and loss account, relatable to such capital gains arising from transactions in securities (excluding short-term capital gains arising from transactions not chargeable to securities transaction tax) is also required to be added back to the Book Profit.

25. Notice for Reassessment – Section 151

Presently section 151 provides for sanction from different sanctioning authorities in different situations where notice under section 148 is to be issued.

Section 151 is amended to provide that notice under section 148 can be issued by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, only after the sanction of Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner. In any other case, where Assessing Officer is below the rank of the Joint Commissioner, sanction of the Joint Commissioner is required.

This amendment is effective from 1st June, 2015.

26. Procedure for appeal on identical question of law pending before Supreme Court – Section 158AA

A new procedure for non-filing an appeal by the Commissioner before the ITAT against the order of the CIT(A) for avoiding multiple litigation has been introduced. This is as under:

- The question of law decided by the CIT(A) is in favour of the assessee.
- The identical question of law is pending before the Supreme Court either by way of an appeal or by way of a Special Leave Petition in case of the same assessee for any other year and the Commissioner receives an acceptance from the assessee that the question of law is identical to the one which is pending before the Apex Court.
- On receipt of the acceptance from the assessee, the Assessing Officer will apply to the ITAT stating that an appeal against the order of CIT(A) on a question of law may be filed within 60 days of receipt of the order of the Supreme Court.
- If no acceptance is received from the assessee, the Commissioner will proceed to file an appeal before the ITAT.
- If the order of the CIT(A) is not in conformity with Supreme Court order, the Commissioner will file an appeal against the CIT(A)'s order, within 60 days of receipt of Supreme Court order.

This amendment is effective from 1st June, 2015.

27. Requirement for obtaining evidence/particulars by employer for TDS – Section 192

Currently, the person responsible for paying salary has to depend upon evidence/particulars furnished by the employee in respect of deductions, exemptions and set-off of loss claimed. There is no guidance regarding the nature of evidence or particulars to be obtained nor is there any uniformity in this regard.

A new sub-section (2C) has been introduced to provide that the person responsible for paying salary to an employee will be required to obtain from him evidence or proof or particulars of prescribed claims including claim for set-off of loss under the provisions of the Act.

This amendment is effective from 1st June, 2015.

28. TDS on Employees Provident Fund Scheme (EPFS) – Sections 192A and 197A

Under section 2(38) of the Act, a Recognised Provident Fund (RPF) means a provident fund recognised under the rules in Part A of the Fourth Schedule to the Act and also includes a fund established under a scheme framed under The Employees Provident

Fund Act, 1952 (EPFS). In case of an employee participating in an RPF, the accumulated balance to his credit in his PF account is excluded from his total income if certain conditions are met.

In case the conditions are not met, the accumulated balance due to the employee is to be included in his taxable income and tax is required to be calculated by re-computing the tax liability of the earlier years. The trustees of a RPF are required to deduct tax at source on that basis.

Trustees of EPFS often do not have the necessary information for the above re-computation leading to difficulty in computing tax liability and deducting tax at source.

Hence, a new section 192A is inserted providing that at the time of payment of the accumulated balance due to the employee, trustees of EPFS shall deduct income-tax at the rate of ten per cent. If the employee fails to furnish his PAN to the trustees of EPFS, tax shall be deducted at the maximum marginal rate. Tax is not deductible under this section where the aggregate amount of withdrawal is less than Rs. 30,000/- or where the employee furnishes a self-declaration in the prescribed Form 15G/15H that tax on his estimated total income would be nil.

These amendments are effective from 1st June, 2015.

29. Deduction of Tax at Source on interest (other than interest on securities) – Section 194A

TDS by co-operative banks on payment to members

Presently co-operative banks have been taking a stand that they are not liable to withhold tax at source on interest payment to a member on the ground that section 194A(3)(v) grants exemption from withholding tax for interest payment by any co-operative society to its member. Section 194A(3)(v) is now amended to expressly provide that payment of interest on time deposits by co-operative banks to its members will not be exempt from withholding tax requirement. Hence if the interest paid or credited is above the prescribed limit of Rs 10,000 as provided in section 194A(3)(i)(b), then tax will have to be deducted at source, as in the case of any other commercial bank.

However, the exemption from withholding tax under section 194A(3)(viia)(b) will continue to be available to a co-operative bank in respect of payment of interest on time deposit taken from a co-operative society. Similarly, a primary agricultural society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank shall continue to enjoy the

exemption under section 194A(3)(viia)(a), and will accordingly not be required to withhold tax on interest payment.

Time deposits to include recurring deposits

The definition of the term "time deposits" under Explanation 1 to section 194A(3) presently excludes recurring deposit from its scope. This definition has now been amended to include recurring deposits within the scope of "time deposits". Accordingly, for all banks, including co-operative banks, withholding tax will be applicable in respect of interest paid on both time deposits and recurring deposits.

Threshhold limit to apply on entity level

Currently, the threshold limit of exemption from withholding tax is applicable to the interest credited or paid by the branch on an individual basis, in the case of a banking company or a co-operative bank or a public company engaged in long-term housing finance. Since most such entities are computerised, and use core banking solutions for crediting interest, it is provided that withholding of tax under section 194A will be with reference to income credited or paid by such entities as a whole, for those who have adopted core banking solutions.

TDS on payment of compensation by the MACT

Interest paid on compensation amount awarded by the Motor Accident Claim Tribunal (MACT) shall now be liable to withholding tax only at the time of payment of interest, if the aggregate amount of such payment during the financial year exceeds ₹ 50,000. Hence, as per the amended provision, there would be no withholding of tax at the time of credit of interest.

These amendments are effective from 1st June 2015.

30. Deduction of Tax from payment to transporters – Section 194C

Currently, payment to transporters carrying on the business of plying, hiring, or leasing of goods carriages is not liable to withholding tax if the transporter furnishes his permanent account number to the payer. From 1st June, 2015, this exemption will be available only to such transporters who own ten or less goods carriages at any time during the previous year and also furnishes a declaration to that effect to the payer along with his permanent account number. The Memorandum to the Finance Bill clarifies that this exemption is available whether such amount is paid by a person engaged in the business of transport or otherwise.

31. Self-declaration for Non-deduction of Tax at Source for Life Insurance Payments – Section 194DA

Section 194DA provides for deduction of tax at source at the rate of 2% from payments made under life insurance policy, which are chargeable to tax and the amount is ₹ 1,00,000/- or more. However, there was no facility for the assessee to file a self-declaration under section 197A to receive the amount without deduction of tax at source even if the assessee has no tax liability.

It is now provided that tax shall not be deducted, if the recipient of the payment on which tax is deductible furnishes to the payer a self-declaration in the prescribed Form No. 15G/15H declaring that the tax on his estimated total income for the relevant previous year would be nil.

This amendment is effective from 1st June, 2015.

32. Interest on certain bonds and Government Securities – Section 194LD

Presently, interest paid to a Foreign Institutional Investor, Qualified Foreign Investor and Foreign Portfolio Investor on rupee denominated bonds of an Indian company or a Government Security is taxed at a concessional rate of 5%. This concession was available for interest payable on or after 1st June, 2013 but before 1st June, 2015.

The concessional rate of tax has now been extended up to 30th June, 2017.

Accordingly, the payer of such interest is required to deduct tax at source at 5% plus applicable surcharge and cess up to 30th June, 2017.

33. Furnishing of Information – Sections 195 & 271-I

Section 195(1) requires any person responsible for paying to a non-resident any interest or other sum chargeable under the provisions of this Act to deduct tax from such payment. Currently, sub-section (6) requires such person referred to in sub-section (1) to furnish the information relating to payment of any sum in Form 15CA.

Sub-section (6) has been amended to provide for furnishing of information whether or not such remittances are chargeable to tax, in such form and manner, as may be prescribed.

Section 271-I has been introduced to provide for a penalty of ₹ 1,00,000/- if the person required to furnish information under

section 195 fails to furnish such information or furnishes inaccurate information. Hitherto there was no provision for penalty in such cases.

This amendment is effective from 1st June, 2015.

34. Processing of TDS and TCS Returns – Sections 200A, 206CB & 220

Presently, unlike TDS statements, there is no provision for processing of TCS statements. The same has been introduced *vide* a new section 206CB.

Section 234E provides for levy of fee for late furnishing of TDS/TCS statements. Suitable provisions have been introduced in sections 200A and 206CB to enable determination of fee payable under section 234E at the time of processing of TDS/TCS statements.

Section 206C(7) provides for payment of interest if the person responsible for collecting the tax does not collect the tax or after collecting does not pay it as required under that section. At the same time, since an intimation generated after processing of TCS Statement under section 206CB is deemed to be a notice of demand under section 156, interest under section 220(2) is payable if the assessee fails to pay such notice of demand within thirty days of the service.

To avoid charging interest on the same amount for the same period of default both under sections 206C(7) and 220(2), a new sub-section (2C) is inserted in section 220 to provide that where interest is charged for any period under section 206C(7), then, no interest shall be charged under section 220(2) of the Act on the same amount for the same period.

These amendments are effective from 1st June, 2015.

35. Notified persons not required to obtain/quote TAN – Section 203A

Section 203A is amended to provide that the requirement of obtaining and quoting of TAN shall not apply to the notified persons. This is in order to reduce the compliance burden for those individuals or Hindu Undivided Family (HUF) who are not liable for audit under section 44AB or for one time transactions such as single transaction of acquisition of immovable property from non-resident by an individual or HUF, on which tax is deductible under section 195.

This amendment is effective from 1st June, 2015.

36. Computation of interest in case of reassessment – Section 234B

In case of increase in the assessed income on reassessment under section 147 or 153A, currently interest under section 234B is chargeable from the date of the regular assessment upto the date of reassessment. Section 234B has now been amended to provide that such interest would be chargeable from 1st April of the relevant assessment year upto the date of reassessment on the additional tax liability.

37. Income limit for disposal of the case by a single member of ITAT – Section 255

A single member bench of the ITAT can now dispose of any case where the income assessed by the Assessing Officer does not exceed ₹ 15 lakhs. Earlier this limit was ₹ 5 lakhs.

This amendment is effective from 1st June, 2015.

38. Revision of Orders Prejudicial to Revenue – Section 263

Presently Principal Commissioner or Commissioner is empowered to revise the order passed by the Assessing Officer if it is erroneous and prejudicial to the interest of the revenue. The section does not provide for the meaning of the words 'erroneous and prejudicial to the interest of the revenue'.

Explanation 2 is added, to provide that an order passed by the Assessing Officer shall be deemed to be erroneous and prejudicial to the interest of revenue, if in the opinion of the Principal Commissioner or Commissioner:

(i) The order is passed without making inquiries or verification which should have been made;

(ii) The order is passed allowing any relief without inquiring into the claim;

(iii) The order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or

(iv) The order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

This amendment is effective from 1st June, 2015.

39. Definition of the term 'accountant' – Section 288

Assessees are, under various provisions of the Act, required to obtain and/or furnish the reports and certificates from an `accountant'. The term `accountant' is defined in an Explanation below section 288(2) to mean a chartered accountant within the meaning of the Chartered Accountants Act, 1949 and includes any person, in relation to any State, who is eligible to be appointed as an auditor by virtue of the provisions of section 226(2) of the Companies Act, 1956 in respect of companies registered in that State. This definition has been amended. The amended definition defines the term `accountant' to mean a chartered accountant as defined in section 2(1)(b) of the Chartered Accountants Act, 1949 who holds a certificate of practice under section 6(1) of that Act. The definition specifically excludes the following persons, **for the purposes other than for representing the assessee** -

1. Where the assessee is a company – any person who is not eligible for appointment as an auditor of the said company in accordance with the provisions of section 141(3) of the Companies Act, 2013;

2. Where the assessee is a person other than a company –

   (i) Where the assessee is an individual, firm or association of persons or Hindu undivided family – the assessee himself or any partner of the firm, or member of the association or the family;

   (ii) Where the assessee is a trust or institution, any person referred to in clauses (a), (b), (c) and (cc) of section 13(3) of the Act;

   (iii) Where the assessee is any person other than those referred to in (i) and (ii) above any person who is competent to verify the return under section 139 in accordance with the provisions of section 140;

   (iv) Any relative of any of the persons referred to in (i), (ii) and (iii) above;

   (v) an officer or employee of the assessee;

   (vi) an individual who is a partner, or who is in employment of an officer or employee of the assessee;

(vii) an individual who himself or his relative or his partner –

(a) is holding any security of or interest in, the assessee;

However, the relative may hold security or interest in the assessee of the face value up to ₹ 1,00,000.

(b) is indebted to the assessee;

However, the relative may be indebted to the assessee for an amount up to ₹ 1,00,000.

(c) has given a guarantee or provided any security in connection with the indebtedness of any third party to the assessee;

However, the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount up to ₹ 1,00,000.

(viii) Any person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed;

(ix) A person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction.

For this purpose, the term `relative' in relation to an individual is defined to mean (a) spouse of the individual; (b) brother or sister of the individual; (c) brother or sister of the spouse of the individual; (d) any lineal ascendant or descendant of the individual; (e) any lineal ascendant or descendant of the spouse of the individual; (f) spouse of the person referred to in clause (b), (c), (d) or (e) above; any lineal ascendant or descendant of a brother or sister of either the individual or of the spouse of the individual.

Sub-section (4) of section 288 has been amended to provide that a person who has been convicted by a court for an offence involving fraud, shall be disqualified to represent an assessee for a period of ten years from the date of conviction.

These amendments are effective from 1st June, 2015.

40. Mode of accepting/repaying loans or deposits etc. – Sections 269SS, 269T, 271D & 271E

Section 269SS prohibits acceptance by any person of loan or deposit in excess ₹ 20,000/- otherwise than through banking channels specified in the section. Similarly, section 269T prohibits repayment of any loan or deposit otherwise than through banking channels specified in the section.

Section 269SS has been substituted and section 269T has been amended to extend these provisions to acceptance and repayment of 'Specified Sum'/'Specified Advance'. Both these terms have been defined effectively to mean any sum of money, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place.

The amendment is stated to curb generation of black money by way of dealings in cash in immovable property transactions.

Consequential amendments have been made in sections 271D and 271E to provide penalty for failure to comply with the amended provisions of section 269SS and 269T.

These amendments are effective from 1st day of June, 2015.

41. Penalty for concealment of income – Section 271(1)(c)

Under the existing provision of section 271(1)(c), penalty for concealment of income or furnishing inaccurate particulars of income is levied on the "amount of tax sought to be evaded", which has been defined, *inter alia,* as the difference between the tax due on the income assessed and the tax which would have been chargeable had such total income been reduced by the amount of concealed income.

There was no clarity on the computation of amount of tax sought to be evaded, where the concealment of income or furnishing inaccurate particulars of income occurred in the computation of income under section 115JB or 115JC or under the general provisions other than the provisions of section 115JB or 115JC where the book profits remained unchanged. Further, in the case of *CIT vs. Nalwa Sons Investments Ltd. [327 ITR 543 (Del)]* it was held that penalty under section 271(1)(c) cannot be levied in cases where the concealment of income occurred under the income computed under general provisions but the tax was paid under the provisions of sections 115JB or 115JC, where there was no addition to the Book Profit. The SLP against the judgment of the Delhi High Court was dismissed by the Supreme Court.

Now, it is provided that the amount of tax sought to be evaded shall be the summation of tax sought to be evaded under the general provisions and the tax sought to be evaded under the provisions of section 115JB or 115JC. However, if an addition on any issue is considered both under the general provisions and also under section 115JB or 115JC, then such amount shall not be considered in computing tax sought to be evaded under provisions of section 115JB or 115JC. Further, in a case where the provisions of section 115JB or 115JC are not applicable, the computation of tax sought to be evaded under the provisions of section 115JB or 115JC shall be ignored.

42. TDS/TCS payments by book entries by Government Deductors/Collectors – Section 272A

Under the existing provisions, Government deductors/collectors were allowed to pay TDS /TCS through book entry. Rules 30 and Rule 37CA of the Income-tax Rules required the Paying Officer to furnish Form 24G detailing the deduction/collection and adjustment. There were no penal consequences for non-furnishing of the said information.

With a view to enforce compliance for reporting of payment through book entry of TDS/TCS, section 200(2A) and section 206(3A) are inserted requiring furnishing of the prescribed information for TDS/TCS by the Government deductors/collectors concerned.

Further, section 272A has been suitably amended to extend levy of penalty of ₹ 100/- for every day of delay in filing the requisite statement under section 200(2A) and 206(3A) in respect of TDS/TCS which shall not exceed the amount of tax.

This amendment is effective from 1st June, 2015.

43. Rules for Foreign Tax Credit – Section 295

Section 295 is amended to provide for the power to the Board to make rules for the purpose of granting relief or deduction of foreign taxes paid in other countries.

This amendment is effective from 1st June, 2015.

44. Payment by a branch of a foreign bank to head office etc. – Section 9(1)(v)

Explanation has been inserted in section 9(1)(v)(c) to specifically provide that the interest payable by a permanent establishment in India of a non-resident bank to the head office or any other overseas permanent establishment or any other part of such non-resident bank outside India shall be deemed to accrue or arise in India and shall be chargeable to tax in addition to any income attributable to the permanent establishment in India. In this connection, it is also provided that the permanent establishment in India shall be deemed to be a person separate and independent of such non-resident.

45. Fund Managers in India not to constitute Permanent Establishment (PE) in India – Sections 9, 271FAA & 273B

Under section 9(1)(i) income is deemed to accrue or arise in India if there is existence of a business connection in India. Similarly, under Double Tax Avoidance Agreements, the non-resident may be liable to tax in India if the non-resident has a PE in India. Under section 6, a person (other than an individual) is considered as a resident in India if the control and management of its affairs is situated in India.

Under the existing provisions, the presence of a fund manager in India may cause the offshore fund to constitute a business connection or PE in India of the offshore fund even though the fund manager may be an independent person. Similarly, if the fund manager located in India undertakes fund management activity in respect of investments outside India for an offshore fund, it was apprehended that the profits made by the fund from such offshore investments may be liable to tax in India due to the location of the fund manager in India. Also, presence of the fund manager may under certain circumstances lead to the offshore fund being treated as resident in India on the basis of its control and management being in India. Hence, apart from taxation of income received by the fund manager as fees for fund management activity, income of offshore fund from investment made in countries outside India may also get taxed in India.

In order to facilitate location of fund managers of off shore funds in India, specific provisions have been made to provide that income arising from such funds from investments in India would not be liable to tax in India merely on account of engagement of the fund manager located in India. Similarly, it is specifically provided

that income of the fund from investments outside India would not be taxable in India solely on the basis that fund manager is located in India.

In order to avail of the above benefit the offshore fund is required to fulfil several specified conditions. Similarly, the fund manager is also required to fulfil the specified conditions.

It is provided that every eligible investment fund shall furnish within 90 days from the end of the financial year, the statement in the prescribed form to the prescribed income tax authority containing information relating to the fulfilment of the above conditions or any information or documents which may be prescribed. In case of any default in submitting the above information, a penalty of ₹ 5 lakh shall be leviable on the fund.

It is specifically clarified that the above provisions shall not grant tax exemption to any investment fund which would have been chargeable to tax in India for any other reason. It is also clarified that the above provisions shall not have any effect on the taxability of the income earned by the fund manager.

46. Settlement Commission – Sections 245A, 245D, 245H, 245HA, 245K, 132B & 234B

Chapter XIX-A deals with settlement of cases. Several amendments have been made in some of the sections in this Chapter. Consequential changes in a few other sections have also been made. The important amendments are as under:

(i) For an assessee to approach the Settlement Commission, it was necessary that a notice under section 148 was received for every assessment year for which the application was to be made. This is amended to provide that where a notice under section 148 is issued for any assessment year, the assessee can approach the Settlement Commission for other assessment years as well even if notice under section 148 for such other assessment years has not been issued so however that a return of income for such other assessment years should have been furnished under section 139 of the Act or in response to notice under section 142 of the Act.

(ii) Clause (iv) of the Explanation to Clause (b) of section 245A is amended to provide that a proceeding for assessment or reassessment referred to in clause (i) or clause (iii) or clause (iiia) for any assessment year shall be deemed to have commenced from the date on which a return of income is furnished under section 139 or in response to notice

under section 142 and concluded on the date on which the assessment is made or on the expiry of two years from the end of relevant assessment year, in a case where no assessment is made.

(iii) The time limit for rectification of an order passed by the Settlement Commission has been changed.

(iv) Section 245H is amended to provide that while granting immunity to the applicant from prosecution, the Settlement Commission must record the reasons therefor in writing.

(v) Section 245K is amended to ensure that in respect of an individual who has made an application to the Settlement Commission under section 245C, any entity controlled by such person is also barred from making an application to the Settlement Commission. Hitherto, only the concerned person was prevented from making another application to the Settlement Commission. Now, entities controlled by such a person will also be prevented. The situations when an entity will be considered to be controlled by the applicant are provided in the Explanation inserted after sub-section (2).

(vi) Section 132B is amended to allow the assets seized from an assessee under section 132 or requisitioned under section 132A to be adjusted against the liability arising on an application made to the Settlement Commission under section 245C.

(vii) Sub-section (2A) is inserted in section 234B to levy interest on the shortfall, if any, that may arise in the advance tax on account of an application made under section 245C. The interest would be calculated from the 1st April of the assessment year and ending on the date of making the application. Similarly, interest would also be payable on the additional shortfall, if any, arising on the basis of an order passed under section 245D for the period from 1st day of April of the assessment year and ending on the date of the order.

47. Wealth-tax Act – Section 3

Section 3 of the Wealth-tax Act has been amended. Net wealth shall not be charged to wealth-tax with effect from assessment year 2016-17.

INDIRECT TAXES

SERVICE TAX

All amendments proposed in the Finance Bill, 2015 of Chapter V of the Finance Act, 1994 (the Act), the newly introduced Chapter VI of the Finance Act, 2015 containing provisions for Swachh Bharat Cess, Notifications issued and the following Rules framed thereunder are discussed below:

Service Tax Rules, 1994 (The Rules or Service Tax Rules)

CENVAT Credit Rules, 2004 (CCR)

- The amendments come into effect from a date to be notified after the enactment of the Finance Bill unless specifically mentioned otherwise.
- All proposals of the Finance Bill, 2015 are referred to as if the amendments have been actually made.

1. Rate of Tax

The rate of service tax is increased from 12.36% to 14% (subsuming education cess and higher education cesses in the said rate).

(The new rate comes into effect from a date to be notified)

2. Swachh Bharat Cess

With the objective of financing and promoting Swachh Bharat initiative, a cess called Swachh Bharat Cess as service tax @2% either on any or all taxable services under the Act or any other law for the time being in force may be levied.

(The scope and effective date of this cess will be notified by the Central Government.)

3. Threshold Exemption

The basic exemption limit of ₹ 10 lakh is maintained.

4. Legislative Changes

i. Widening of tax base

The definition of service is amended whereby the scope is expanded to include the activities carried out by:

- A lottery distributor or selling agent in relation to promotion, marketing, organising, selling or facilitating in organising of State lottery of any kind in any manner;
- A foreman of a chit fund for conducting or organising a chit

The above activities are not considered as actionable claim or transaction in money, as the case may be.

Consequently the terms 'lottery distributor or selling agent' and 'foreman of chit fund' are defined in section 65B under clause (31A) and (23A) respectively.

Also refer para 4.iv below for valuation in respect of lottery services.

ii. Negative list of services

- Any service provided by Government or a local authority to any business entity is now taxable. Consequentially the definition of "support services" contained in clause (49) of section 65B is omitted. 'Government' is now defined to mean Central Government, State Governments, Union territory and the departments of all the three, but excludes entities created under statute or otherwise, the accounts of which are not required to be kept as per Article 150 of the Constitution or the rules framed thereunder. [Section 66D(a)(iv) read with section 65B(26A)]
- 'Process amounting to manufacture or production of goods' now specifically excludes manufacture or production of alcoholic liquor for human consumption. The said activity therefore is liable for service tax. Further, any process amounting to manufacture is now described as services by way of carrying out any process amounting to manufacture [Section 66D(f) read with 65B(40)].
- The scope of 'betting, gambling or lottery' is restricted by excluding promotion, marketing, organising, selling or facilitating in organising a lottery by lottery distributor or selling agent. Hitherto, only commission or fee was liable for service tax. Now even the margin between the sale price and purchase price of lottery tickets is liable for service tax [section 67 read with explanation to Section 66D(i), Sections 65B(31A) and 65B(44)].

- Clause (j) in section 66D containing 'admission to entertainment events or access to amusement facilities' and consequently clauses (9) and (24) of section 65B are omitted. However, limited exemption is now provided under Notification No 25/2012-ST. Refer para 5i below for exemption.

iii. Principles of interpretation of specified descriptions of services or bundled services

An illustration is inserted in section 66F(1) explaining the difference between main service and a service used for providing the main service. It clarifies that reference to the main service, say provided by Reserve Bank of India does not include any input service used for providing the main service of Reserve Bank of India. In other words, if the exemption relates to any output service then it cannot be said that the input service used for providing the said exempted output service is also exempt.

(The above comes into effect from the date of enactment of Finance Bill, 2015)

iv. Valuation of taxable services

In section 67, the term 'consideration' hitherto included any amount that is payable for the taxable services provided or to be provided. It would now additionally include –

- Any reimbursable expenditure or cost incurred by the service provider and charged in the course of providing or agreeing to provide a taxable service except in circumstances and conditions as prescribed in this regard.
- Any amount retained by lottery distributor or selling agent from gross sale amount of lottery tickets in addition to fee/commission/discount received i.e. the difference between the face value of lottery ticket and the price at which the distributor/selling agent gets such ticket. Refer to para 4i above.

  (The above comes into effect from the date of enactment of Finance Bill, 2015)

v. Other Amendments in the Act

- When a service provider furnishes a return under self-assessment but does not pay service tax in part or

full, the Government is empowered to initiate recovery proceedings by any mode provided under section 87. The said provision already existed under rule 6(6A) of the Rules. However, now the Government can proceed to recover the unpaid dues **without serving any notice**. [insertion of sub-section(1B) in section 73]

- Sub-section (4A) in the said section 73 dealing with consequences of short payment, non-payment, non-levy etc. arising on audit, investigation or verification is now omitted.

(The above comes into effect from the date of enactment of Finance Bill, 2015)

vi. Penalties

- Penalty for failure to pay Service Tax [Section 76]

  In case of non-payment or short payment of service tax or erroneous refund not involving fraud, collusion, wilful mis-statement or suppression of facts without the intent to evade service tax the penalty shall be as under:

Situation	Penalty Without
Where shortfall of or unpaid service tax is paid along with interest within 30 days from the date of service of notice issued under section 73(1)	Nil
Where shortfall of or unpaid service tax is paid along with interest and penalty within 30 days from date of receipt of adjudication order under section 73(2)	25% of penalty imposed in adjudication order
If service tax amount gets modified in appellate proceeding and service tax, interest and penalty is paid within 30 days of receipt of appellate order	25% of modified penalty
In all cases not covered above	Not exceeding 10% of service tax amount

The above change also applies in cases where the show cause notice:

(a) is not served under section 73(1) before the enactment of Finance Bill 2015; or

(b) is served under section 73(1) but no adjudication order is passed before enactment of Finance Bill, 2015.

- Penalty for concealment, suppression, etc. [Section 78]

  In case of non-payment or short payment of service tax or erroneous refund involving fraud, collusion, wilful misstatement or suppression of facts, etc with the intent to evade service tax shall be as under:

Situation	Penalty
Where shortfall of or unpaid service tax is paid along with interest and penalty within 30 days from the date of service of notice issued under section 73(1)	15% of service tax amount
Where shortfall of or unpaid service tax is paid along with interest and penalty within 30 days from date of receipt of adjudication order under section 73(2)	25% of penalty imposed in adjudication order
If service tax amount gets modified in appellate proceeding and service tax, interest and penalty is paid within 30 days of receipt of appellate order	25% of modified penalty
In all cases not covered above	100% of service tax amount

The above change also applies in cases where the show cause notice:

(a) is not served under section 73(1) before the enactment of Finance Bill 2015; or

(b) is served under section 73(1) but no adjudication order is passed before enactment of Finance Bill, 2015.

- Penalty when short payment or non-payment of service tax, etc. is detected in the course of audit, investigation, verification commenced prior to enactment of the Finance Bill, 2015 [Section 78B(2)]

  The penalty will be up to 50% of service tax amount where;

(a) short/non-payment of service tax or erroneous refund is detected during the course of audit, investigation or verification; and

(b) complete details of transactions are available in the specified records of the assessee; and

(c) show cause notice is not served u/s. 73(1) or where the notice is served but no adjudication order is passed before the enactment of Finance Bill, 2015.

- Power to waive penalty:

  Section 80 which provided for waiver of penalty imposable under sections 76 and 77 is now omitted.

(The above comes into effect from the date of enactment of Finance Bill, 2015)

vii. Remedy against order of Commissioner (Appeals) in a matter involving rebate of service tax [Section 86]

The remedy against order of Commissioner (Appeals) involving rebate of service tax on export of services lies with the Central Government in accordance with the provisions of section 35EE of Central Excise Act 1944. All appeals filed with the tribunal, after the enactment of Finance Bill, 2012 and pending on the date of enactment of Finance Bill, 2015 will also be dealt with in the same manner.

(The above comes into effect from the date of enactment of Finance Bill, 2015)

5. Exemptions

i. New Exemptions [Notification No. 25/2012 – ST]

- Hitherto, transportation of patients to and from a clinical establishment by a clinical establishment, authorised medical practitioner or paramedics was exempt from service tax. The scope of this exemption is widened to include all ambulance services. [Entry 2]
- Services of life insurance business provided under Varishtha Pension Bima Yojana. [Entry 26A(d)]
- Services by operator of Common Effluent Treatment Plant by way of treatment of effluent. [Entry 43]
- Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables. [Entry 44]

- Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo. [Entry 45]
- Service provided by way of exhibition of movie by an exhibitor (theatre owner to the distributor or an association of persons consisting of the exhibitor as one of its members. [Entry 46]
- Services by way of right to admission to -

  (a) Exhibition of cinematographic film, circus, dance, or theatrical performance including drama or ballet;

  (b) Recognised sporting event;

  (c) Award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event, where the consideration for admission is not more than ₹ 500 per person."

  [Entry 47]

ii. Modifications in existing exemption entries

- Hitherto services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of the following were exempt —

  (a) A civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;

  (b) A historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);

  (c) A structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;

  (d) Canal, dam or other irrigation works;

(e) Pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal; or

(f) A residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65B of the Act;

The exemption in respect of (a), (c) and (f) above is withdrawn. [Entry 12]

- Exemption to service by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, is available only when the consideration for such performance is up to ₹ 1 lakh. However, the exemption is not available when such service is provided by such artist as a brand ambassador. [Entry 16]
- Hitherto, transportation by rail, vessel or road from one place in India to another in respect of food stuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oils excluding alcoholic beverages was exempt. The exemption is now restricted to milk, salt and food grains including flours, pulses and rice. [Entry No. 20(i) and 21(d)]
- Exemption for carrying out an intermediate production process as job work in relation to any goods on which appropriate duty is payable by the principal manufacturer now excludes alcoholic liquors for human consumption. [Entry No. 30(c)]

iii. Exemptions withdrawn

- Services by way of construction, erection, commissioning, or installation of original works pertaining to airport or port. [Entry 14(a)]
- Services by mutual fund agent or by a distributor to a mutual fund or asset management company [Entries 29(c) and 29(d)]
- Service by selling or marketing agent of lottery tickets to a distributor or a selling agent. [Entry 29(e)]
- Services by way of making telephone calls from departmentally run public telephone; guaranteed

public telephone operating only for local calls and free telephone at airport and hospital where no bills are being issued. [Entry 32]

The terms, national park, recognised sporting event, tiger reserve, trade union, wild life sanctuary and zoo are now defined.

(Entry Nos. 30(c) and 47 come into effect from a date to be notified. All other entries come into effect from 1-4-2015.)

[Refer Notification No.6/2015-ST dated 1-3-2015.]

iv. Other Exemptions

- Exemption under Notification No. 42/2012-ST dated 29/06/2012 to taxable services provided by a commission agent located outside India and used in export of goods by an exporter is withdrawn from 1-3-2015.

  (Notification No. 03/2015-ST dated 1-3-2015)

- Exemption under Notification No. 31/2012-ST dated 20-6-2012 is now extended to services provided by goods transport agency in a goods carriage to an exporter for transport of export goods from their place of removal or any container freight station or inland container depot to any land custom station from where the goods are exported.

  (Notification No. 04/2015-ST dated 1-3-2015)

(The above comes into effect from 1-4-2015)

6. Abatement (Notification No. 26/2012-ST)

- Hitherto, service tax is payable on 30% of the value of rail transport of goods and passengers, 25% of the value of goods transport by road by a goods transport agency and 40% of the value of goods transport by vessels subject to fulfillment of certain conditions. A uniform abatement of 70% is now prescribed for transport by rail, road and vessel and service tax is accordingly payable on 30% of the value subject to a uniform condition of non-availment of CENVAT credit on inputs, capital goods and input services. Hitherto, CENVAT credit on inputs, capital goods and input services was available for transportation of goods and passengers by rail. In

view of the above amendment, this credit is no longer available.

- The abatement for transportation of passenger by air service for classes other than economy is reduced from 60% to 40%. Service tax is now payable on 60% of the value of service for such classes.
- The abatement for services provided in relation to chit is withdrawn.

(Notification No. 08/2015-ST dated 1-3-2015)

(The above comes into effect from 1-4-2015)

7. Reverse Charge Mechanism (Notification No. 30/2012-ST)

- Manpower supply and security services when provided by an individual, HUF, or partnership firm to a body corporate are brought under full reverse charge. Hitherto, these services were under partial (75%) reverse charge mechanism.
- Services provided by mutual fund agents and distributors and agents of lottery distributor are covered under reverse charge mechanism consequent upon withdrawal of exemption on such services. Accordingly, service tax in respect of mutual fund agents and distributors is now payable by the asset management companies or mutual funds receiving such services and in respect of agents of lottery, by the distributor of lottery.
- Further, in respect of services involving aggregator, the liability under reverse charge mechanism, is of the aggregator or his agent. The term "aggregator" is defined under clause 1(aa) of rule 2 of the Rules.

(Notification No. 07/2015-ST dated 1-3-2015)

(The above comes into effect from 1-4-2015)

8. Amendments in the Rules

i. In respect of any service provided under aggregator model such as radio taxi etc., the aggregator or any of his representatives located in India is liable for service tax. If an aggregator does not have any presence in India or a representative, any agent appointed by the aggregator is liable

to pay the tax on behalf of the aggregator. (This comes into effect from 1-3-2015)

ii. Registration

Order No. 1/2015-ST, dated 28-2-2015, effective from 1-3-2015 is issued, prescribing documentation, time limits and procedure for registration. Accordingly, registration for single premises will be granted within two days of filing the application and registration certificate can be downloaded from ACES without having a requirement of a signed certificate. [Rule 4(9)]

iii. Facility for issuing digitally signed invoices is introduced along with the option of maintaining records in electronic form and their authentication by means of digital signatures. The CBEC will notify the conditions and procedure in this regard (Rule 4, 4A and 5).

iv. Consequent upon change in service tax rate, the alternate rates in respect of the following services are revised as under :

Applicable Rule	Taxable Service	Existing Rate of Service Tax	Revised Rates of Service Tax
6(7)	Booking of air tickets by air travel agent	Domestic bookings– 0.6% International bookings – 1.2%	Domestic bookings– 0.7% International bookings – 1.4%
6(7A)	Life insurance service	First year – 3% Subsequent year – 1.5%	First year – 3.5% Subsequent year – 1.75%
6(7B)	Money changing service		
	(i) gross amount of currency exchanged for an amount upto ₹ 100,000	0.12% or Minimum ₹ 30/-	0.14% or Minimum ₹ 35/-
	(ii) Gross amount of currency exchanged for an amount of rupees exceeding ₹ 100,000 and up to ₹ 10,00,000	₹ 120/- and 0.06%	₹ 140/- and 0.07%

	(iii) Gross amount of currency exchanged for an amount of rupees exceeding ₹ 10,00,000	₹ 660 and 0.012% or maximum of ₹ 6000/-	₹ 770 and 0.014% or maximum of ₹ 7000/-
6(7C)	Service provided by lottery distributor and selling agent	₹ 7,000 on every ₹ 10 lakh or part of ₹ 10 lakh of aggregate face value of lottery tickets printed by the organising State for a draw ₹11,000 on every ₹ 10 lakh or part of ₹ 10 lakh of aggregate face value of lottery tickets printed by the organising State for a draw	₹ 8,200 on every ₹ 10 lakh or part of ₹ 10 lakh of aggregate face value of lottery tickets printed by the organising State for a draw ₹ 12,800 on every ₹ 10 lakh or part of ₹ 10 lakh of aggregate face value of lottery tickets printed by the organising State for a draw

(Notification No. 05/2015-ST dated 1-3-2015)

(The above comes into effect from a date to be notified)

9. Advance Ruling

The facility of Advance Ruling is extended to all resident firms by specifying such firms under section 96A(b)(iii). The term 'firm' is defined for the said purpose.

(Notification No. 09/2015-ST dated 1-3-2015)

(The above comes into effect from 1-3-2015)

10. CENVAT Credit Rules, 2004 (CCR)

i. Conditions for allowing CENVAT credit

- CENVAT credit can now be taken upon receipt of inputs and capital goods in the premises of a job worker, in cases where goods are sent directly to the job worker on the directions of the manufacturer or provider of output service [Rule 4(1) and 4(2)(a)]

- A time limit of six months from the date of issue of any documents specified in Rule 9(1) was introduced with effect from 1-9-2014, for availment of CENVAT credit of duty / service tax paid on inputs or input services by a manufacturer or provider of output service. The said time limit of six months is now increased to one year [Third Proviso to Rule 4(1) and Sixth Proviso to Rule 4(7)]

- The following amendments are made in the provisions relating to CENVAT credit on inputs and capital goods sent by a manufacturer or provider of output service to a job worker which were required to be returned within 180 days:

  (a) Specifically permitting sending of inputs by a job worker to another job worker and likewise; [Rule 5(a)(i)]

  (b) Inputs can be directly sent to the job worker without being first brought to the premises of a manufacturer or provider of output service. In such cases, the stipulated time limit for return within 180 days shall be counted from the date of receipt of inputs by the job worker; [proviso to Rule 5(a)(i)]

  (c) In case of capital goods sent to a job worker, the time limit within which the said capital goods are to be returned to the manufacturer or a provider of output service is increased from 180 days to two years. Now, capital goods can also be sent directly to the premises of job worker and the time limit for return shall be counted from the date of receipt of capital goods by the job worker [Rule 5(a)(ii) and proviso thereunder]

- In cases of input service where whole or part of the service tax is liable to be paid by the recipient of service, CENVAT credit of service tax payable by the service recipient is now allowed after such service tax is paid. Hence, the earlier condition of payment to service supplier of the invoice amount in case of partial reverse charge for availment of CENVAT Credit, is done away with. [First proviso to Rule 4(7) comes into effect from 1-4-2015]

ii. Refund of CENVAT Credit

A new Explanation (1A) is inserted defining "export goods" to mean any goods which are to be taken out of India to a place outside India. [Rule 5]

iii. Obligation of a manufacturer or producer of final products and a provider of output service

An Explanation 1 is inserted after proviso in Rule 6(1) to provide that exempted goods or final products as defined in Rule 2(d) & (h) now includes non – excisable goods cleared for a consideration from the factory. Explanation 2 now provides that, for this purpose, value of non – excisable goods shall be the invoice value and where such value is not available, the value will be determined as per the principles of valuation under the Central Excise Act, 1944 & Rules framed thereunder. [Rule 6(1)]

iv. Documents and Accounts

Provisions relating to maintenance of records for CENVAT credit in cases where inputs or capital goods are purchased from a first stage dealer or a second stage dealer, will equally apply to an importer who issues an Invoice for availment of CENVAT credit. [Rule 9(4)]

v. Power to impose restrictions in certain type of cases

Powers to impose restrictions on utilisation of CENVAT credit and suspension of registration, will also apply to registered importers. [Rule 12AAA]

vi. Recovery of CENVAT credit wrongly taken or erroneously refunded

(a) A new sub-rule (1)(i) has been inserted to provide that in cases where CENVAT credit has been taken wrongly but not utilised, the same shall be recovered from the manufacturer or provider of output service and the respective provisions of section 11A of Central Excise Act, 1944 or Section 73 shall apply. [Rule 14(i)]

(b) A new sub rule (2) has been inserted to provide that for the purpose of Rule 14(1), all credits taken during a month shall be deemed to have been taken on the last

day of the month and the utilisation thereof shall be deemed to have occurred in the following manner :

(i) Opening balance of the month has been utilised first;

(ii) Credits admissible in terms of these rules taken during the month has been utilised next;

(iii) Credit inadmissible in terms of these rules taken during the month has been utilised thereafter [Rule 14(2)]

vii. Confiscation and Penalty

The penal provisions are aligned with the provisions of section 11AC(1)(a) & (b) of the Central Excise Act, 1944 and section 76(1). [Rule 15(1), (2) and (3) comes into effect from the date of enactment of Finance Bill, 2015]

(The above comes in to effect from 1-3-2015 except specifically mentioned otherwise)

CENTRAL EXCISE

[The amendments in the Central Excise Act, 1944 (the Act) come into effect from the date of enactment of the Finance Bill, 2015 unless specifically mentioned otherwise.]

1. Legislative changes

i. Provisions relating to duty recovery

- Penalty provision in respect of category of cases where extended period of limitation applies but the transactions are recorded in the specified records is omitted.
- The relevant date in respect of cases where return is filed is the date of filing of the return and in case where only the interest is required to be recovered, the relevant date is the date of payment of duty.
- Penalty under section 11A does not apply to cases where non-payment or short payment of duty is reflected in the periodic returns. In such cases, the recovery of duty will be made in such manner as may be prescribed in the Central Excise Rules.

  [Section 11A]

ii. Penalty

- For cases not involving suppression etc.:
  - (a) In addition to the duty as per section 11A(10), a penalty not exceeding 10% of the duty determined or ₹ 5,000/- whichever is higher, is levied.
  - (b) If the duty and interest is paid either before issue of show cause notice or within 30 days from the issue of show cause notice, no penalty is levied.
  - (c) If the duty and interest is paid within 30 days of the receipt of adjudication order, the penalty levied is equal to 25% of the penalty imposed in such order, provided such penalty is paid within 30 days from the receipt of the order.
- For cases involving suppression etc.
  - (a) If the duty and interest is paid within 30 days from the receipt of show cause notice, the penalty is levied @15% of the duty demanded provided

such reduced penalty is paid within 30 days from the receipt of the show cause notice.

(b) If duty and interest is paid within 30 days of the receipt of the adjudication order, the penalty is levied @25% of penalty imposed in such order, provided such penalty is also paid within 30 days of the receipt of such order.

- In both the above cases, when the duty amount gets reduced in any appellate proceeding, the penalty amount stands modified and benefit of reduced penalty is available, if duty, interest and reduced penalty is paid within 30 days from the receipt of such appellate order.

  (Section 11AC)

- Settlement commission

  When any proceeding is referred back, whether in appeal or revision or otherwise, by any Court, Appellate Tribunal or any other authority to the adjudicating authority for a fresh adjudication or decision, such case cannot be referred for settlement to the Settlement Commission. Further, the Commission shall also now not be able to reopen its completed proceedings. (Proviso to section 31CC).

- Penalty increased from ₹ 2,000/- to ₹ 5,000/- for a person involved in handling of goods in cases involving removal of any excisable goods in contravention of provision of any Rule or Act, and liable for confiscation. (Section 37).

2. Central Excise Rules, 2002

[The changes come into effect from 1-3-2015 unless specifically mentioned otherwise.]

- The duty payable as mentioned in the return filed under the Rules and the interest thereon, if any, is also required to be paid by the assessee on self-assessment basis. Further, section 11 also applies for recovery of such duty and interest. (Rule 8).

- The assessee can now maintain the records on daily basis in respect of goods produced or manufactured, opening balance, quantity removed etc. in the electronic format and can also be preserved in electronic format provided every page of the records maintained has digital signature. (Rule 10).

- When the input goods are directly sent to the job workers under the direction of manufacturer, the invoice is required to contain details of manufacturer as buyer and details of job worker as consignee. (Rule 11).
- Invoice issued under this rule may be authenticated by means of digital signature provided the duplicate copy of the invoice meant for transporter is digitally signed and a hard copy of such transporter copy of the invoice duly self-attested by the manufacturer is used for transport of goods. [Rule 11(8)].
- ₹ 100/- per day subject to maximum of ₹ 20,000/- is prescribed for the delay in submission of Annual Financial Information Statement or Annual Instal Capacity Statement. [Rule 12(6)].
- ₹ 100/- per day subject to maximum of ₹ 20,000/- is prescribed for the delay in submission of Return under sub-rule 3 by a 100% EOU clearing goods to DTA. [Rule 17(6)].
- In respect of rebate of duty for any goods exported, 'export' is defined as "taking goods out of India to a place outside India" and includes shipment of goods as provision or stores for use on board a ship, proceeding to a foreign port or supplied to a foreign going aircraft. (Rule 18).
- Registration under the Act is mandatorily required to be now PAN based in all the cases. Registration will be granted within two days and the registration certificate can be downloaded from ACES without requirement of a signed certificate.

3. CENVAT Credit Rules, 2004

[Refer Serial No.10 under Service Tax].

4. Key changes: First Schedule to the Central Excise Tariff Act 1985. [This comes into effect from 1-3-2015]

- Change in rate of duty

Education Cess and Secondary & Higher Secondary Education Cess are subsumed in basic excise duty. Simultaneously, the standard *ad valorem* rate of basic excise duty of excise (i.e. CENVAT) is increased from 12% to 12.5%. and specific rates of basic excise duty on petrol, diesel, cement, cigarettes and other tobacco products (other than beedies) are simultaneously changed.

- All goods falling under Chapter sub-heading 2101 20, including iced tea, are notified under section 4A of the Act for the purpose of assessment of Central Excise duty with reference to the retail sale price with an abatement of 30%.
- Goods such as lemonade and other beverages are notified under section 4A of the Act for the purpose of assessment of Central Excise duty with reference to the retail sale price with an abatement of 35%.
- Excise duty of 2% without CENVAT credit or 6% with CENVAT credit is levied on condensed milk in unit containers. Condensed milk is also notified under section 4A of the Act for the purpose of valuation with reference to the retail sale price with an abatement of 30%. Excise duty of 2% without CENVAT credit or 6% with CENVAT credit is levied on peanut butter.
- Maximum speed of packing machine for packing of notified goods of various retail sale prices is specified as a factor relevant to production for determining excise duty payment under the compounded levy scheme presently applicable to paan masala, gutkha and chewing tobacco. Accordingly, deemed production and duty payable per machine per month are notified with reference to the speed range in which the maximum speed of a packing machine falls.
- Full exemption of excise duty is extended to captively consume intermediate compound coming into existence during the manufacture of agarbatties. Agarbatties attract NIL rate of duty.

5. Advance Ruling

The facility of Advance Ruling is also extended under Central Excise has provided under Service Tax and Custom to include resident from under section 23A(iii)(c) of the Act.

(Notification No. 11/2015 – Central Excise (N.T.) dated 1-3-2015)

[For changes in the rates of excise duty on individual products please refer BCAS website].

CUSTOMS

The amendments in Customs Act, 1962 (the Act) come into effect from March 01, 2015 unless specifically mentioned otherwise.

1. Legislative Changes

Penalty

- Amendment in penalty provisions in section 28 is made in line with service tax and central excise. Therefore, it is not provided here.
- Penalty for improper importation of goods [Section 112]

Situation	Penalty Reduced
In case of improper importation of goods, unpaid custom duty is paid along with interest within 30 days from the receipt of the order	Higher of 10% of duty sought to be evaded or ₹ five thousand

- Penalty for improper export of goods [Section 113]

Situation	Penalty Reduced
In case of improper export of goods, unpaid custom duty is paid along with interest within 30 days from the receipt of the order	Higher of 10% of duty sought to be evaded or ₹ five thousand

[The above comes into effect from the date of enactment of the Finance Bill, 2015].

2. Other Amendments

- In case of units having provisional mega power project status, earlier the units were required to furnish guarantee or fixed deposit receipt for a term of 36 months or more. This term is extended to 66 months.
- Bulk drugs used in the manufacture of the specified drugs are either exempt from BCD or attract concessional rate of 5% of BCD, provided procedure laid down in the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 is followed by the importers. Further, these bulk drugs used in manufacture are also exempt from excise duty provided procedure laid down in Central

Excise (Removal of Goods at Concessional Rate of Duty for manufacture of Excisable Goods) Rules is followed.

- Concessional BCD rate of 5% is extended to active energy controller which is used for manufacture of renewal power system subject to certification by the ministry of new and renewable energy.
- BCD on cash dispenser and automatic bank note dispensers and parts and components thereof is already exempt. However, the exemption notification, though chapter heading of cash dispenser and automatic bank note dispensers are mentioned, no chapter heading for parts and components were mentioned. Now, the exemption is excluded to parts and components of these items also.
- CVD and SAD exemption on notified printing and packaging machinery imported for use by security printing and minting corporation of India limited (SPMCIL) is withdrawn.
- Schedule rate of additional duty of customs on import of motor spirit (petrol) and high speed diesel has been increased from ₹ 2 per litre to ₹ 8 per litre. However the effective rate of the additional duty of customs on import of these products is kept at ₹ 6 per litre

3. Advance Ruling

The facility of Advance Ruling is extended to all resident firms by specifying such firms under section 28E(c)(iii). The term 'firm' is defined for the said purpose.

(Notification No. 9/2015 – Customs dated 1-3-2015)

4. Rate of Duty

- Basic Customs Duty (BCD):

Sr. No.	***Particulars***	***Existing Rate***	***New Rate***
1.	Metallurgical coke	2.5%	5%
2.	Iron & steel and articles of iron or steel, falling under Chapters 72 and 73 of the Customs Tariff.	10%	15%

3.	Tariff rate of Commercial Vehicles except electrically operated vehicles, falling under 8702 or 8704. Eg:- • Dumpers • Lorries and trucks • Vehicles for transport etc.	10%	40%
4.	Ethylene dichloride (EDC), vinyl chloride monomer (VCM) and styrene monomer (SM).	2.5%	2%
5.	Isoprene and Liquefied butanes	5%	2.5%
6.	Butyl acrylate	7.5%	5%
7.	Antimony metal, antimony waste and scrap	5%	2.5%
8.	Ball screws, linear motion guides and CNC systems used in the manufacture of specified CNC lathe machines and machining centers.	7.5%	2.5%
9.	Ultrasound Transducer, Camera sensors, optical fiber bundle for use in the manufacture of flexible medical video endoscopes.	5%	2.5%
10.	Tariff rate of Bituminous coal (effective rate is 2.5%).	55%	10%
11.	Sulphuric acid for manufacture of fertilizers	7.5%	5%
12.	Anthraquinone	7.5%	2.5%
13.	C-Block compressor and crankshafts for use in the manufacture of refrigerator compressor falling under tariff item 8414 30 00.	7.5%	5%
14.	Over Load Protector (OLP) and positive thermal coefficient for use in the manufacture of refrigerator compressor falling under tariff item 8414 30 00.	7.5%	5%
15.	Zirconia compounds, cerium compounds and zeolite used in manufacture of washcoat	7.5%	5%
16.	Water blocking tape, EPDM and mica glass tap for use in the manufacture of insulated wires and cables.	10%	7.5%
17.	Metal parts for use in the manufacture of electrical insulators.	10%	7.5%

- Export Duty Reduced:

Sr. No.	Particulars	Existing Rate	New Rate
1.	Ilmenite	5%	2.5%

- Special Additional Duty (SAD) Reduced:

Sr. No.	Particulars	Existing Rate	New Rate
1.	Naphtha, ethylene dichloride (EDC), vinyl chloride monomer (VCM) and styrene monomer (SM) for manufacture of excisable goods.	4%	2%
2.	Melting scrap of iron & steel, stainless steel scrap for the purpose of melting copper, brass and aluminum scrap	4%	2%

- Goods exempted from customs duty: BCD/CVD/SAD:

Sr. No.	*Particulars*	*Duty*
1.	Battery, titanium, palladium wire, eutectic wire, silicone resins and rubbers, solder paste, reed switch, diodes, transistors, capacitors, controllers, coils (steel), tubing (silicone)] for use in the manufacture of pacemakers.	CVD & SAD
2.	Parts, components and accessories (falling under any Chapter) for use in the manufacture of tablet computers. Also, BCD and CVD are being exempted on sub-parts for use in manufacture of parts, components and accessories of tablet computers. These exemptions will be subject to actual user condition.	BCD, CVD & SAD
3.	Evacuated tubes with three layers of solar selective coating for use in the manufacture of solar water heater and system, subject to actual user condition	BCD
4.	High Density Polyethylene (HDPE) for manufacture of telecommunication grade optical fibers or optical fiber cables.	BCD
5.	Black Light Unit Module and also for `manufacture of LCD/LED TV panels, subject to actual user condition.	BCD
6.	Battery pack, Battery Charger, Ac/DC motor/motor controller, Engine for HV, PCU, Control ECU for HV, Generator, Transaxle for HV, Brake System for recovery, Energy Motor and Electric Compressor for use in the manufacture of hybrid and electrically operated vehicles is being extended by one more year up to 31st March, 2016.	BCD

7.	Artificial hearts (left ventricular assist device)	BCD & CVD
8.	Lifesaving drugs and medicines imported by an individual for personal use subject to the Condition that importer produces a certificate in notified format	BCD & CVD
9.	Ulexite ore	BCD
10.	Organic LED (OLED) TV panels	BCD
11.	Digital Still Image Video Cameras capable of recording video	BCD
12.	Parts and components for use in the manufacture of such digital cameras	BCD
13.	Magnetron (upto 1 KW) used for the manufacture of domestic microwave oven.	BCD
14.	All goods except populated PCBs, falling under any Chapter of the Customs Tariff, for use in manufacture of ITA bound goods	SAD
15.	Inputs for use in the manufacture of LED drivers and MCPCB for LED lights, fixtures and LED lamps	SAD

GOODS AND SERVICES TAX

The Finance Minister in his budget speech has stated that GST will put in place a state-of-art indirect tax system by 1st April, 2016. He further stated that the Government is keen to introduce this modernized indirect tax regime, introduction of which is eagerly awaited by trade and industry. In order to provide a hassle free business environment, the Government is creating a non-adversarial tax regime, aimed to end tax terrorism. It has secured political agreement on goods and services tax (GST) that will allow legislative passage of the constitutional amendment bill. GST is expected to play a transformative role in the way our economy functions. It will add buoyancy to our economy by developing a common Indian market and reducing the cascading effect on the cost of goods and services. To facilitate a smooth transition to levy of tax on goods and services by both the Centre and the States, the Government is moving in various fronts to implement GST from the next year.

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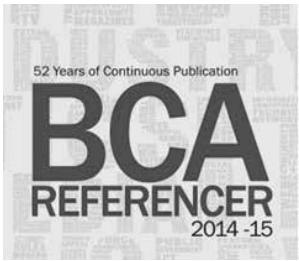

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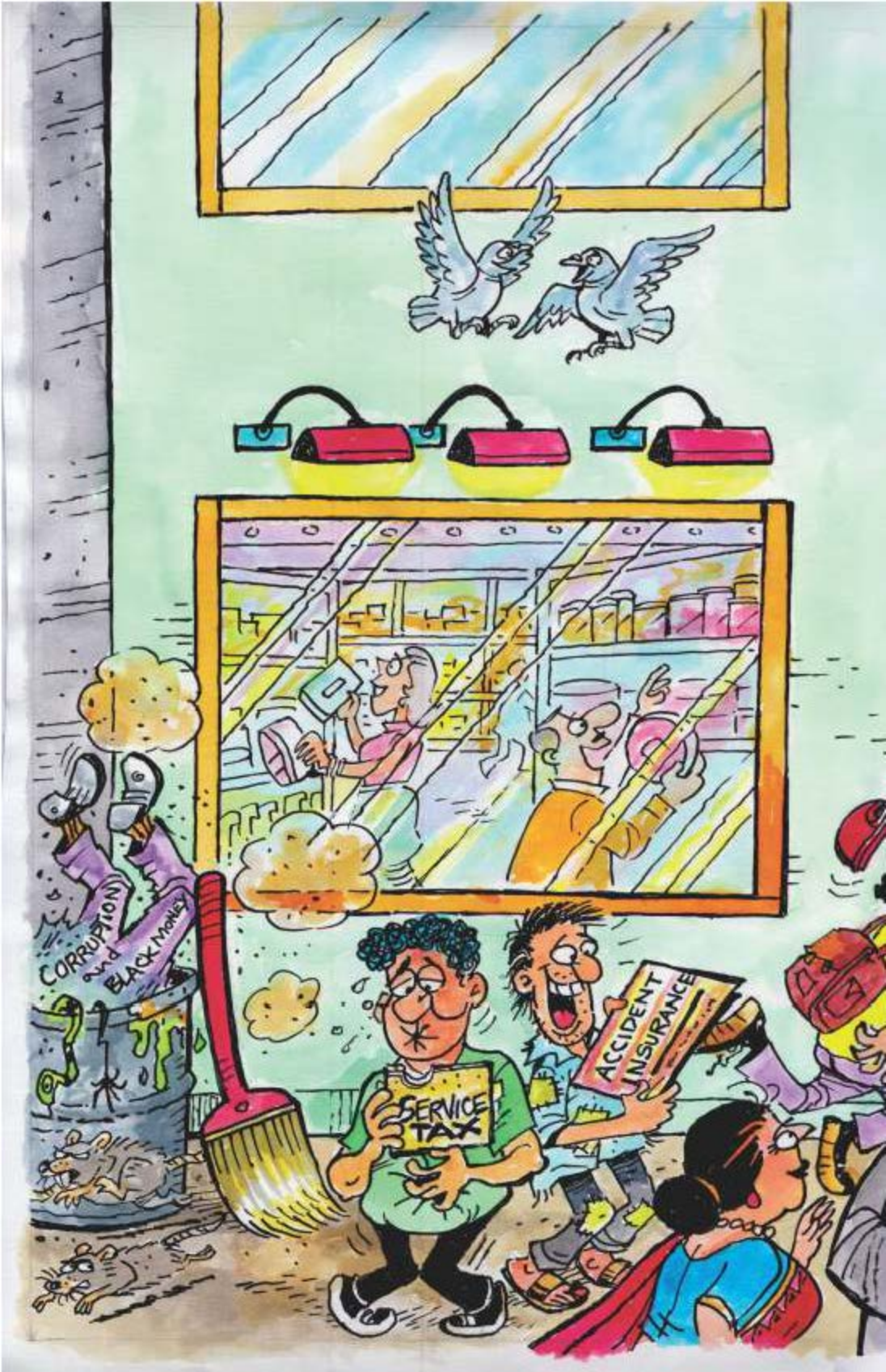
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