

AT A GLANCE

BUDGET EDITION

(KEY UPDATES FROM THE WORLD OF TAX, FINANCE AND CORPORATE LAWS)

For Private Circulation

DIRECT TAXES

INCOME TAX SLAB RATES/CHANGES IN RATES

Change in Tax Rates

Amendment	Remarks
Tax Rate on Domestic Company	<ul style="list-style-type: none">❖ Turnover in PY 14-15 \leq 5 Cr, then Tax @ 29%.❖ All other cases Tax @ 30%.
Newly Setup Domestic Company	Tax @ 25% if following conditions are satisfied: - <ul style="list-style-type: none">i) the company has been setup and registered on or after 1st day of March, 2016;ii) the company is engaged in the business of manufacture or production of any article or thing and is not engaged in any other business;iii) the company while computing its total income has not claimed any benefit under section 10AA, benefit of accelerated depreciation, benefit of additional depreciation, investment allowance, expenditure on scientific research and any deduction in respect of certain income under Part-C of Chapter-VI-A other than the provisions of section 80JJAA; andiv) the option is furnished in the prescribed manner before the due date of furnishing of income.
Surcharge	Surcharge @ 15% (earlier 12%) in case of Individual / HUF / AOP / BOI / AJP having total income exceeding ₹ 1 Crore.

(Applicable w.e.f. AY 2017-18)

DEDUCTIONS

Additional tax benefit for individuals claiming deduction in respect of rent paid under section 80GG

To provide additional relief to individuals who live in rented house and not getting the HRA benefit. The limit of deduction under section 80GG in respect of rent paid has been increased from ₹ 24,000 per annum to ₹ 60,000 per annum.

(Applicable w.e.f. AY 2017-18)

First home loan buyers to get an additional deduction on interest for loan.

Additional deduction up to ₹ 50,000 per annum in respect of interest on Housing loan under section 24(b) of the Act is proposed to be available to the first time individual buyers of Residential property if:

- i. Value of Residential House property does not exceed ₹ 50 Lakhs.
- ii. Amount of loan is not exceeding ₹ 35 Lakhs.
- iii. Loan is sanctioned between 1.4.2016 to 31.3.2017

(Applicable w.e.f. AY 2017-18)

Extension of provisions of section 80JJAA of the income-tax Act.

Section 80JJAA has been amended to clarify that the deduction under this section will be available to all assesses who are subject to statutory audit under the Act. Previously, such deduction was allowed to industrial undertaking who was engaged manufacture of goods in its factory. It is further proposed to reduce the minimum number of days of employment in a financial year from 300 days to 240 days and also the condition of 10% increase in number of employees every year is proposed to be withdrawn.

(Applicable w.e.f. AY 2017-18)

Measures to boost growth and employment generation

In order to promote start-ups new section 80IAC has been inserted and it is proposed to allow 100% deduction of profits for three out of five years for start-up incorporated during April, 2016 to March, 2019. Provisions of MAT will apply in such cases.

(Applicable w.e.f. AY 2017-18)

EXEMPTIONS

Rebate for individuals with income less than or equal to ₹ 5 Lakhs increased by ₹ 3,000

In order to provide relief to small taxpayers, tax rebate given to resident individuals with total income does not exceed ₹ 500,000 under section 87A have been increased from ₹ 2,000 to ₹ 5,000

(Applicable w.e.f. AY 2017-18)

Exemption from Dividend Distribution Tax (DDT)

In order to facilitate investments in Real Estate Investment Trust (REITs) and Infrastructure Investment Trust (Invits) any distribution made out of Special Purpose Vehicle (SPV) will not be subjected to dividend distribution tax, in respect of dividend distributed after **June 1st, 2016**.

(Applicable w.e.f. June 01, 2016)

Dividends in excess of ₹ 10 Lacs become taxable

A new section 115BBDA has been inserted to tax dividends received in excess of ₹ 10 Lacs by Individual, Hindu Undivided Family and Firm, resident in India. Dividend income

is otherwise exempt under Section 10(34); however, such exemption is proposed to be withdrawn in case of rich investors receiving dividend exceeding ₹ 10 lakhs.

(Applicable w.e.f. AY 2017-18)

SECURITY TRANSACTION TAX

Change in rate of Securities Transaction Tax

Rate of Securities Transaction tax on sale of Option has been increased from 0.017% to 0.05% of option premium where Option is not exercised.

(Applicable w.e.f. June 01, 2016)

PROFITS & GAINS FROM BUSINESS & PROFESSION

Increase in turnover or gross receipts for presumptive taxation.

It is proposed that for the purpose of presumptive taxation under section 44AD the threshold limit of total turnover has been increased from ₹ 1,00,00,000 to ₹ 2,00,00,000 for an eligible business and for the eligible assessee. Now the eligible assessee is required to pay the advance tax by 15th March of every year.

(Applicable w.e.f. AY 2017-18)

Extended presumptive income scheme for professionals

It is proposed to rationalize the scheme for professionals; the new section 44ADA has been introduced for presumptive taxation of professionals. As per the presumptive income scheme the income from professionals will be estimated to be fifty percent (50%) of the total gross receipts. Further, the threshold limit of professionals for getting their accounts audited is being proposed to increase from twenty five lakhs to fifty lakhs.

(Applicable w.e.f. AY 2017-18)

Benefit of Additional Depreciation extended to assessee engaged in business of Power Transmission

Benefit of Additional depreciation @ 20% on new plant and machinery acquired / installed during the year was earlier available to assessee engaged in business of generation and distribution of power. In order to rationalize the power sector, benefits of additional depreciation have been proposed to be extended to the assessee engaged in the business of Power Transmission.

(Applicable w.e.f. AY 2017-18)

Scope of Section 43B extended to include certain payments made to railways.

To facilitate the prompt payment of dues to Railways for use of the Railway assets, it is proposed to amend section 43B (Payments allowable on cash basis) so as to expand its scope to include payments made to Indian Railways for use of Railway assets within its ambit.

(Applicable w.e.f. AY 2017-18)

Amortization of spectrum fee for purchase of spectrum

Spectrum fee is paid by telecommunication companies and levied by Government on auction of airwaves. A new section 35ABA is proposed to be inserted to provide for tax treatment of spectrum fee paid. It provides that any capital expenditure incurred on the acquisition of any right to use spectrum for telecommunication services by paying spectrum fee will be allowed as a deduction in equal installments over the period for which the right to use spectrum remains in force.

(Applicable w.e.f. AY 2017-18)

CAPITAL GAINS

No capital gain tax on redemption of gold bonds

It is proposed to provide that redemption by an individual of Sovereign Gold Bond issued by Reserve Bank of India under Gold Bond Scheme, 2015 shall not be charged capital gains tax. However, long-term capital gains arising to any person on transfer of Sovereign Gold Bonds would be eligible for indexation benefits.

(Applicable w.e.f. AY 2017-18)

Clarification regarding provisions of Section 112(1)(c) are not applicable to private companies

To clarify the position of chargeability of capital gains on shares of private companies from long term capital gain tax it is proposed to amend the provisions of clause (c) of sub-section (1) of section 112 of the Income- tax Act, so as to provide that long-term capital gains arising from the transfer of a capital asset being shares of a company not being a company in which the public are substantially interested, shall be chargeable to tax at the rate of 10 per cent.

(Applicable w.e.f. AY 2017-18)

Rationalization of Section 50C in case sale consideration is fixed under agreement executed prior to the date of registration of immovable property

It is proposed to amend the provisions of section 50C so as to provide that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of computing the full value of consideration provided the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, on or before the date of the agreement for the transfer of such immovable property.

(Applicable w.e.f. AY 2017-18)

One extra condition for conversion of company to LLP- Total Assets value

It is proposed to amend the said section 2(47) of the Act so as to provide that, for availing tax-neutral conversion, in addition to the existing conditions, the value of the total assets in the books of accounts of the company in any of the three previous years

preceding the previous year in which the conversion takes place, should not exceed five crore rupees shall be satisfied.

(Applicable w.e.f. AY 2017-18)

TAX DEDUCTED AT SOURCE

Applicability of Tax Collection at Source on Sale of vehicles; goods or services

Requirement of Tax collected at Source has been widened and following transaction has been included in ambit of section 260C: -

- a. Purchase of Motor Vehicle exceeding ₹ 10 Lacs
- b. Purchase in cash of any goods or providing any services (other than those on which requirement of Tax Deduction at Source are applicable) if value thereof exceeds ₹ 2 lakhs and the payment thereof is made in cash.

(Applicable w.e.f. June 01, 2016)

Amendment in Section 197 of the Act

Section 197 of the Act has been amended to include Section 194LBB in which 10% TDS was required to be deducted on the income received by the investor from the specified investment fund to benefit the non-resident for the NIL or lower rate of tax available to him in under the relevant DTAA since there is no facility for any investor to approach the AO for seeking certificate of TDS at a lower or NIL Rate.

(Applicable w.e.f. June 01, 2016)

Filing of Form 15G/15H for rental payments:

Section 197A of the Act has proposed to be amended to provide benefit of self-declaration of 'NIL' rate of tax on estimated income in Form 15G/15H for non-deduction of tax at source by the deductors who are covered under the provisions of section 194I of the Act making payment of rent.

(Applicable w.e.f. June 01, 2016)

Amendment in TDS Rates:

Increase in threshold limit of deduction of tax at source on various payments mentioned in the relevant sections of the Act

Present Section	Heads	Existing Threshold Limit (₹)	Proposed Threshold Limit (₹)
192A	Payment of accumulated balance due to an employee	30,000	50,000
194BB	Winnings from Horse Race	5,000	10,000
194C	Payments to Contractors	Aggregate annual limit of ₹ 75,000	Aggregate annual limit of ₹ 1,00,000
194LA	Payment of Compensation on acquisition of certain Immovable	2,00,000	2,50,000

	Property		
194D	Insurance commission	20,000	15,000
194G	Commission on sale of lottery tickets	1,000	15,000
194H	Commission or brokerage	5,000	15,000

(Applicable w.e.f. June 01, 2016)

Revision in rates of deduction of tax at source on various payments mentioned in the relevant sections of the Act

Present Section	Heads	Existing Rate of TDS (%)	Proposed Rate of TDS (%)
194DA	Payment in respect of Life Insurance Policy	2%	1%
194EE	Payments in respect of NSS Deposits	20%	10%
194D	Insurance commission	Rate in force (10%)	5%
194G	Commission on sale of lottery tickets	10%	5%
194H	Commission or brokerage	10%	5%

(Applicable w.e.f. June 01, 2016)

Certain non-operational provisions to be omitted

Present Section	Heads	Proposal
194K	Income in respect of Units	To be omitted w.e.f 01.06.2016
194L	Payment of Compensation on acquisition of Capital Asset	To be omitted w.e.f 01.06.2016

(Applicable w.e.f. June 01, 2016)

Advance Tax Payment Schedule u/s 211 of the Act

As per section 211, the advance tax payment schedule for a company is 15%, 45%, 75% and 100% to be paid by 15th June, 15th September, 15th December and 15th March respectively. For other assesseees, the advance tax schedule is 30%, 60% and 100% to be paid by 15th September, 15th December and 15th March respectively.

It is proposed to rationalize the advance tax payment schedule for all the assesseees as under:

Due date of installment	Amount payable
On or before the 15 th June	Not less than 15% of advance tax
On or before 15 th September	Not less than 45% of advance tax; as reduced by the amount paid in earlier installment
On or before 15 th December	Not less than 75% of advance tax; as reduced by the amounts paid in earlier installments
On or before 15 th March	The whole amount of advance tax; as reduced by the amounts paid in earlier installments

It is further proposed that an eligible assessee opting for presumptive taxation u/s 44AD shall be required to pay advance tax of the whole amount in 1 installment on or before 15th March of the F.Y.

Consequential amendments are also proposed to be made to section 234C.

(Applicable w.e.f. June 01, 2016)

FOREIGN COMPANIES/ NON RESIDENTS

Higher TDS under section 206AA not applicable to certain Non-Resident.

It is proposed to exempt the requirement of furnishing PAN under section 206AA. Consequently withholding higher rate of tax will not be applicable when payment is made to non- resident not having PAN, subject to prescribed conditions.

(Applicable w.e.f. June 01, 2016)

Bigger tax breaks for International Financial Services Centre (IFSC)

To facilitate the growth of IFSC it is proposed to amend that if any transaction is undertaken without payment of security transaction tax but in foreign currency will be exempt. The criteria is it should be undertaken on a recognized stock exchange located in an International Financial Services Centre. Further, the minimum alternate tax shall be chargeable at the rate of 9% instead of existing rate of 18.5%.

(Applicable w.e.f. June 01, 2016)

Non-applicability of Minimum Alternative Tax ('MAT') provisions on the income of Foreign Companies

In pursuance to the report of the A.P. Shah committee, the finance minister has proposed to retrospectively amend the income tax act to provide for exemption to foreign companies the, which does not form a permanent establishment in India, from the provisions of MAT.

Further, the said provisions shall not be applicable if:

- ❖ The assessee is resident of a country or a specified territory with which India has entered into a double tax avoidance agreement under sub section (1) of section 90 or sub section (1) of section 90A; and
- ❖ The assessee is resident of a country with which India does not have an agreement, as above, and which is not required to seek registration under companies or allied acts.

(Applicable retrospectively w.e.f. AY 2001-02)

Special Notified Zone (SNZ) created for giving exemption in respect of foreign mining companies (FMC) for certain activities

In order to promote foreign mining companies (FMCs) for operating in India a Special Notified Zone (SNZ) has been created wherein activity of display of uncut and unsorted diamond (without any sorting or sale) will be out of purview of section 9 of Income Tax Act, 1961 i.e. it will not be treated as Income deemed to accrue or arise in India. Earlier However, mere activity of displaying of rough diamonds by FMC constitutes as business connection in India, even though no actual sale takes place.

(Applicable retrospectively w.e.f. AY 2016-17)

Exemption of income of Foreign Company from storage and sale of crude oil

In order to create stability in oil prices in India, Government of India is promoting storage of crude oil as strategic reserves. Foreign National Oil Companies (NOCs) and Multinational Companies (MNCs) engaged in business of storage of crude oil in India has been given exemption from income on account of storage of crude oil facility in India and sale therefrom to any person resident in India upon satisfaction of some conditions.

(Applicable w.e.f. AY 2016-17)

SEARCH & SEIZURE

Processing of return u/s 143(1) mandatory even if 143(2) has already been issued

Finance Bill 2016 proposed to amend the section to provide that before making an assessment order u/s 143(3), a return shall be mandatorily processed u/s 143(1).

(Applicable w.e.f. AY 2017-18)

Monetary limit for SMC (Single Member Bench) Bench in ITAT increased to ₹ 50 Lakhs.

Section 255 of the Act has been amended and it has been laid down that a single member bench may dispose of a case where the income as computed by the AO does not exceed ₹ 50 lakhs. Earlier the limit was ₹ 15 Lakhs.

(Applicable retrospectively w.e.f. June 01, 2016)

Assumption of jurisdiction of AO

Section 124(3) provides for the time period wherein the jurisdiction of the AO can be challenged by an assessee. The said provision does not refer to the notices issued u/s 153A or 153C which relate to assessments in cases of search and seizure.

It is proposed to amend section 124(3) to specifically provide that cases where search is initiated or books of accounts or assets are requisitioned, no person shall be entitled to challenge the jurisdiction of the AO after the expiry of 1 month from the date of service of notice u/s 153A (1) or 153C (2) of the Act or after the completion of the assessment, whichever is earlier.

(Applicable w.e.f. June 01, 2016)

The Income Declaration Scheme, 2016

The Scheme is proposed to provide an opportunity to the persons who have not paid full taxes in the past. These declarants may declare the undisclosed income and pay tax @ 30%, surcharge @ 25% of tax and penalty @ 25% of tax totaling to 45% of the undisclosed income declared. The Scheme will be applicable in respect of undisclosed income of any F.Y. up to 2015-16 and will come into effect from **01st June, 2016** and remain open till the date to be notified by the Central Government.

The Scheme specifically excludes the cases where notices u/s 142(1) or 143(2) or 148 or 153A or 153C has been issued. Issues covered under Black Money act etc. It has also been proposed that no scrutiny and enquiry under the Act will be undertaken in respect of such declarations.

The Direct Tax Dispute Resolution Scheme, 2016

This Scheme has been introduced in order to reduce the huge backlog of cases. The features of the Scheme are as under:

- ❖ The Scheme is applicable to tax, interest and penalty determined under the Act, in respect of which an appeal is pending before the Commissioner (Appeals).
- ❖ Under the Scheme, where the disputed tax is less than ₹ 10 lakhs, the declarant is required to pay tax along with interest up to the date of assessment. However, in cases where the disputed tax exceeds ₹ 10 lakhs, the above amount of tax in interest will also be accompanied by 25% of the minimum penalty leviable on such tax.
- ❖ Any penalty pending appeal against the penalty order can be settled by paying 25% of the total penalty levied as well as payment of total quantum demand including interest.
- ❖ Consequent to such declaration, the appeal will be deemed to be withdrawn.

(Applicable w.e.f. June 01, 2016)

PENALTIES

Changes in Penalty provisions

- ❖ Section 270A –
Finance bill proposed to delete section 271 w.e.f 1.4.2017 and a new section 270A has been inserted for levy of penalty in case of under reporting and misreporting of income. Penalty shall be leviable @50% in case of under reporting and 200% in case of misreporting of the income.

(Applicable w.e.f. April 01, 2017)

- ❖ Section 271AAB –
The quantum of penalty leviable under section 271AAB has been amended to flat rate of 60% as against the range of 30- 90% of the undisclosed income.

(Applicable w.e.f. April 01, 2017)

Immunity from penalty and prosecution in certain cases – Section 270AA

This new section 270AA proposed to be inserted to grant immunity from penalty u/s 270A (Penalty for under reporting or misreporting of income) provided assessee pays tax and interest as per assessment order and does not prefer an appeal against such order. The application shall be made to the AO within 1 month from the end of the month in which the order is received. Immunity shall be granted in respect of under reporting of income only.

The AO shall pass an order accepting or rejecting such application within a period of 1 month from the end of the month in which the application is received.

The said order passed by the AO will be a final order and will not an appealable order u/s 246A of the Act.

In case the assessee makes an application under this section, the period starting from the date of application till the date of disposal of the application is to be excluded for the calculation of aforesaid period of 30 days of filing appeal before CIT(A)

(Applicable w.e.f. April 01, 2017)

TIME LIMIT

Increase in time limit for acquisition or construction of self-occupied property for claiming deduction of interest.

In view of the fact that housing projects often take longer time for completion, it is proposed that provisions of section 24 be amended to provide that the deduction under the said provision on account of interest paid on capital borrowed for acquisition or construction of a self-occupied house property shall be available if the acquisition or construction is completed within five years from the end of the financial year in which capital was borrowed instead of three years.

(Applicable w.e.f. AY 2017-18)

Time limit for disposing applications u/s 273A, 273AA or 220(2A)

Finance Bill 2016 has proposed to amend section 220, section 273A, and section 273AA to provide that an order accepting or rejecting the application of the assessee shall be passed within a period of 12 months from the end of the month in which the application is received. Also, it is proposed to provide that no order rejecting the application of the assessee under these sections shall be passed without giving the assessee an opportunity of being heard.

(Applicable w.e.f. June 01, 2016)

Time limit for assessment, reassessment and recomputation

The existing time limit for completion of assessment proceedings is 2 years from the end of the A.Y. In order to simplify the provisions of section 153, the following changes in time limits are proposed to be substituted:

- ❖ For completion of assessment u/s 143(3) / 144; the period is to be changed from existing 2 years to 21 months from the end of the A.Y.
- ❖ For completion of assessment u/s 147; the period is to be changed from existing 1 year to 9 months from the end of the F.Y. in which the notice u/s 148 was issued
- ❖ For completion of fresh assessment in pursuance of an order u/s 254 / 263 / 264 setting aside or cancelling the original assessment; the period is to be changed from existing 1 year to 9 months from the end of the F.Y. in which the order u/s 254 is received or the order u/s 263 / 264 is passed.

Further, the period for giving the effect to the order passed u/s 250 / 254 / 260 / 262 / 263 / 264 or to an order of the Settlement Commission shall be 3 months from the end of the month in which the order is received or passed.

Also, it is proposed that the appeal effect, i.e. effect to the finding or direction contained in an order passed u/s 250 / 254 / 260 / 262 / 263 / 264, shall be provided on or before the expiry of 12 months from the end of the month in which the respective order is received.

It is also proposed to make consequential changes in section 92CA(3) regarding the time limit for completion of assessment by the AO in accordance with the extension of time limit provided to the Transfer Pricing Officer.

The existing provisions of section 153 shall apply to and in relation to any assessment or reassessment or recomputation order made before 1st June, 2016, i.e. the new time limits will be applicable for all the orders passed after **1st June, 2016**.

Time limit for assessment in search cases

It is proposed to amend the time limit for completion of assessment u/s 153A or 153C cases to bring it in sync with the new time limits provided for other cases. Section 153B is proposed to be substituted with following changes:

- ❖ In respect of each A.Y. falling within 6 A.Ys. and in respect of the A.Y. in which the search is conducted, the period is to be changed from existing 2 years to 21 months from the end of the F.Y. in which the last of the authorizations for search u/s 132 or requisition u/s 132A was executed.
- ❖ In cases of other persons referred to in section 153C, the period is to be changed from existing 2 years to 21 months from the end of the F.Y. in which the last of the authorizations for search u/s 132 or requisition u/s 132A was executed, or 9 months from the end of the F.Y. in which the books of accounts / documents / assets are handed over to the AO having jurisdiction over the person; whichever is later.

The existing provisions of section 153B shall apply to and in relation to any assessment or reassessment or recomputation order made before 1st June, 2016, i.e. the new time limits will be applicable for all the orders passed after 1st June, 2016.

(Applicable w.e.f. June 01, 2016)

Change in Time limit for Revision of ITAT order- Miscellaneous Application

Finance Bill amended Section 254 of the Act to provide that time limit for rectification of any mistake apparent from record in the ITAT order at any time within 6 months from the end of the month in which the order is passed earlier it was within 4 years from the date of order.

(Applicable w.e.f. June 01, 2016)

TRANSFER PRICING

Adoption of Country-by-country ('CbC') reports with effect from AY 2017-18

To align the domestic laws with the international laws, the finance bill has proposed the adoption of CbC reports and master file. The provisions of CbC reports shall be applicable from assessment years falling on or after 2017-18. Further, the limit for maintaining CbC reports has been set at ₹ 5,395 crores (consolidated revenue of a multinational enterprises ('MNE') having an Indian parent; in all other cases the limit shall be the currency equivalent of EUR 750 million).

The CbC report shall be submitted in the prescribed form and shall constitute of revenue, profit & loss before Income-tax, amount of Income-tax paid and accrued, details of capital, accumulated earnings, number of employees, tangible assets other than cash or cash equivalent in respect of each country or territory along with details of each constituent's residential status, and nature and detail of main business activity and any other information as may be prescribed.

Failure to furnish such report shall cause a penalty of ₹ 5,000 per day (if the default period is less than a month), ₹ 15,000 per day (if default continues for more than a month) and ₹ 50,000 per day in case of continuing default. Further, penalty of ₹ 500,000 shall be levied in case of furnishing inaccurate particulars in the CbC report.

(Applicable w.e.f. AY 2017-18)

INTERNATIONAL TAXATION

Activities of an offshore fund manager not to constitute business connection in India

With effect from AY 2017-18, the activities of a fund manager acting on behalf of an eligible investment fund shall not constitute business connection of such fund in India.

The eligibility criteria, as specified under sub section (3) of section 9A, for the investment fund are summarized as under:

- ❖ The fund has to be resident of a country with which India has a Double Tax Avoidance Agreement ('DTAA') or a Tax Information Exchange Agreement ('TIEA'); and
- ❖ The fund shall not carry on or control and manage, directly or indirectly, any business in India or from India nor shall engage in any activity which constitutes business connection in India.

(Applicable w.e.f. AY 2017-18)

Application of provisions of Place of effective management ('POEM') deferred to by a year

The provisions of POEM shall provide for a transition mechanism for a company incorporated outside India which was earlier not assessed to tax in India. Further the central government is empowered to notify any exemption, modification or adaption subject to which the computation of income, carry forward of losses, treatment of unabsorbed depreciation and special provisions relating to avoidance of tax shall apply to a foreign company if it is considered resident in India as a result of POEM.

(Applicable w.e.f. AY 2017-18)

Introduction of chapter on 'Equalisation Levy' to counter challenges of digital economy

To address the issue of digital economy, in consideration to the suggestions set forth in Action 1 of the Base Erosion and Profit Shifting ('BEPS') initiative of the Organization of Economic Cooperation and Development ('OECD'), the finance minister has proposed to introduce a new chapter in the finance bill by name of 'Equalisation Levy'. Under the proposed chapter, to counter the challenges of taxation posed by enterprises forming a virtual fixed base ('Virtual PE') by maintaining a website on the server of a another enterprise, to provide an equalisation levy of 6% on the amount of consideration for services received or receivable by a non-resident not having a permanent establishment ('PE') in India, from a resident in India or a non-resident having a PE in India. However, the provisions of equalisation levy shall not be applicable if the amount received or receivable by a non-resident does not exceed ₹ 100,000 during the previous year.

The chapter further empowers the central government to make rules in regards to the equalisation levy. Accordingly it is proposed that exemption under section 10 shall be provided for income arising from provision of specific services on which equalisation levy is applicable. Further, no deduction of expenses incurred towards specific services shall be permissible in case of failure by the assessee to deduct and deposit the equalisation levy to the credit of the central government.

It is to be noted that the tax is a separate levy from Income tax and will not be covered under the scope of Double Taxation Avoidance Agreements.

(Effective date to be notified by the Central Government)

MISCELLANEOUS

Clarification regarding set-off of losses from against deemed undisclosed income.

In order to avoid unnecessary litigation, it is proposed to amend the provisions of the sub-section (2) of section 115BBE to expressly provide that no set off of any loss shall be allowable in respect of income under the sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D. This amendment will take effect from **1st April, 2017** and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

Automation of various processes and paperless assessment

In order to facilitate paperless assessment it is proposed to amend section 282A (1) so as to provide that the notices and other documents shall be issued by the income-tax authority either in paper form or in electronic form. Further, a new clause (23C) is proposed to be inserted in section 2 to define the term "hearing", which will include communication of data and documents through electronic mode.

The said amendments will take effect from **1st June, 2016**.

Revision of Belated Return of Income

It is proposed to amend section 139(5) to include a belated return under its scope. Now, even a return filed u/s 139(4) can be revised before the expiry of one year from the end of the relevant A.Y. or before the completion of the assessment, whichever is earlier.

These amendments will take effect from **1st April, 2017** and will apply in relation to A.Y. 2017-18 and subsequent years.

Mere Non-payment of self-assessment tax does not make ROI defective.

Further, it is proposed to omit clause (aa) of section 139(9), to provide that a return which is otherwise valid would not be treated as defective merely because self-assessment tax and interest payable as per section 140A of the Act have not been paid on or before the due date of furnishing of the return.

These amendments will take effect from **1st April, 2017** and will apply in relation to A.Y. 2017-18 and subsequent years.

Payment of interest on refund

In order to ensure the filing of return within the due date, it is proposed to amend section 244A to provide that in cases where the return is filed after the due date, the period of interest on refund may begin from the date of filing of return, and not from 1st April.

Further, it is proposed to provide that where a refund arises out of appeal effect, in addition to the interest u/s 244A which is 6% p.a., an additional interest on such refund at the rate of 3% p.a. will be payable. These amendments will take effect from **1st June, 2016**.

Applicability of tax in case charitable institution becomes non-charitable: -

New Chapter 'CHAPTER XII-EB' has been introduced to tax the accredited income of charitable institutions upon following events: -

- ❖ Merger with organization other than registered u/s 12AA with same objects.
- ❖ Failed to transfer upon dissolution all assets to other charitable institution registered u/s 12AA or other similar institutions as defined in the chapter.
- ❖ Converted to any other form which is not eligible for registration (eg. Change in objects not eligible, cancellation of registration etc.).

The accreted income of an organization shall be subjected to tax at the maximum marginal rates

(Applicable w.e.f. June 01, 2016)

Concessional rate of tax for income from patents registered in India

To boost the Make in India campaign of the government and to make India a global research & development ('R&D') hub, the finance minister has introduced a new section 115BBF to offer a concessional tax rate of 10% (plus surcharge and cess) on the income arising from royalty from the use of patents registered in India. The concessional rate shall be applicable only to an eligible assessee who is first inventor and whose name is registered as the patentee in accordance with the Patents Act 1970.

(Applicable w.e.f. AY 2017-18)

O. RBI/ FEMA

Appointment of officer for recovery of arrears of penalty under FEMA

A new section 14A has been added to FEMA act, 1999, empowering an officer of Enforcement not below the rank of Assistant Director to recover arrears of penalty levied and not paid within ninety days of date of notice served. The officer so authorized would have similar powers as conferred on the income-tax authority in relation to recovery of tax under the Income Tax, Act, 1961.

(Effective from date to be notified by the Central Government)

INDIRECT TAXES

A. CENTRAL SALES TAX

Deemed movement of goods

Section 3 of the Central Sales Tax Act, 1956 has been amended to clarify that the transportation of gas through a common carrier pipeline or any other common distribution system, which inter alia mixes with the other gases in pipeline in one state and is taken out from the pipeline in another state, then such sale or purchase of gas shall be deemed to be movement goods from one state to another.

(Effective from enactment of the Finance Bill)

B. SERVICE TAX

Levy of Krishi Kalyan Cess w.e.f June 01, 2016

Krishi Kalyan Cess is proposed to be levied on all the taxable services at the rate of 0.5% on the value of such taxable services. Credit of Krishi Kalyan Cess paid on input services shall be allowed to be used for payment of Krishi Kalyan Cess on output service. It is an initiative to finance and promote improved agriculture. ***(Effective from June 01, 2016)***

Changes to Finance Act, 1994

-Effective from the date of enactment of the Finance Bill, 2016 as otherwise mentioned:-

- a) Section 67A has been amended to confer specific powers under the section to make rules regarding point in time of rate of service tax. Consequential amendments made in Point of Taxation Rules, 2011
- b) Services of specified educational institutions, transportation of passengers by stage carriage(effective from June 01,2016), and transportation of goods by an aircraft or a vessel from a place outside India to the customs station of clearance in India (effective from June 01,2016) have been omitted from section 66D (Negative List of services). However, consequential exemptions for the same have been provided vide N.N. 09/2016 amending the Mega Exemption notification.
- c) Section 66E amended to include assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof as declared service so as to make it leviable to service tax and not as sale of intangible goods.
- d) Section 73 amended so as to increase the period of limitation for recovery of service tax not levied or paid or short- levied or short paid or erroneously refunded, for cases not involving fraud, collusion, suppression etc. from eighteen months to thirty months.
- e) Section 89 amended to raise the monetary limit of punishable offences from Rs. 50 Lakhs to Rs. 2 Crore.
- f) Section 90 and Section 91 amended to restrict the power to arrest in case where the service tax is collected but not paid above an amount of Rs. 2 Crore.

Retrospective amendments:-

-Effective from the date of enactment of the Finance Bill, 2016

- a) Retrospective applicability i.e. from July 01, 2012 given to N.N. 01/2016 wherein the ambit of specified services for the purposes of refund of service tax had been increased include all taxable services, in the case of excisable goods, that have been used beyond factory or any other place or premises of production or manufacture of the said goods, for their export. Thus, service tax paid after July 01, 2012 till February 02, 2016 is eligible for refund provided that the refund is filed within one month of enactment of Finance Bill, 2016.
- b) Section 101 has been added to give retrospective applicability i.e. from July 01, 2012 to January 29, 2014 to the N.N. 02/2014 wherein the definition of "governmental authority" was amended to include governmental entities set up other than by Act of Parliament or State Legislature. Thus, service tax paid during such period is eligible for refund provided that the refund is filed within six month of enactment of Finance Bill, 2016.
- c) Following exemptions has been restored w.e.f April 01, 2015 on the services provided under a contract entered before March 01, 2015 and on which appropriate stamp duty is paid:-
 - a. Section 102 has been added to restore the exemption on services provided to Government, a local authority, or governmental authority by way of construction, erection, etc. of
 - i. civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
 - ii. structure meant predominantly for use as an educational, clinical, art or cultural establishment;
 - iii. residential complex predominantly meant for self-use or the use of their employees or other specified persons.
 - b. Section 103 has been added to restore exemption on services provided by way of construction, erection etc. of original works pertaining to an airport or port.

Thus, service tax paid during such period is eligible for refund provided that the refund is filed within six month of enactment of Finance Bill, 2016.

Consequential amendments has been made in the mega exemption notification vide N.N. 09/2016 extending the above exemptions till March 31, 2020.

Point of Taxation (Amendment) Rules, 2016

To resolve the doubts that rose about the applicability of service tax rate/ contradiction between Section 67A of the Finance Act 1994 and Point of Taxation Rules, 2011 (POTR, 2011), specific powers are conferred under section 67A to make rules regarding point in time of rate of service tax. Consequent modification is being done through N.N. 10/2016 in Rule 5 (POTR,2011) by way of insertion of explanations that Rule 5 (POTR,2011) shall apply on any new levy of service tax and new levy shall be payable in all cases other than as specified in Rule 5 (POTR,2011). ***(Effective from March 01, 2016)***

Service Tax Amendment Rules, 2016

-Effective from April 01, 2016

Service Tax Rules, 1994 amended as follows:-

- a) Rule 2(1)(d)(EEA) of Service Tax Rules, 1994 omitted vide N.N. 19/2016 making mutual fund agents/distributors liable to pay service tax on the services rendered to Mutual Fund/ Asset Management Company under normal charge.

Previously, these agents/distributors were brought under the ambit of reverse charge mechanism.

- b) Rule 6 of the Service tax Rules, 1994, has been amended to allow One Person Companies (OPC) to pay service tax on quarterly basis and on receipt basis where aggregate value of services provided is up to Rs. 50 lakh in the previous financial year. Further, the benefit of quarterly payment of service tax is also being extended to HUF.
- c) The service tax liability on single premium annuity (insurance) policies is being rationalized and the effective alternate service tax rate (composition rate) is being prescribed at 1.4% of the total premium charged, in cases where the amount allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service.
- d) Rule 7 amended necessitating every assessee to submit an annual return for the financial year by the 30th day of November of the succeeding financial year in the forma and manner to be notified later.
- e) Rule 7B amended to provide that assessee filing the annual return by the due date may submit a revised return within a period of one month from the date of submission of the said annual return.
- f) Rule 7C amended to provide a fee of one hundred rupees per day for late filing of annual return Where the annual return is filed by the assessee after the due date, subject to a maximum of twenty thousand rupees.

Rationalization of Interest on Delayed Payment

Interest rates on delayed payment of duty/tax across all indirect taxes are being rationalized and made uniform at 15%, except in case of Service Tax collected but not deposited to the exchequer, in which case the rate of interest will be 24% from the date on which the Service Tax payment became due.

Further, where value of taxable services in the preceding year(s) covered by the notice is less than Rs. 60 Lakh, the rate of interest on delayed payment of Service Tax will be 12% instead of 15%. **(Notification No 14/2016 and Notification No. 13/2016 effective from enactment of the finance bill)**

Reverse Charge Mechanism on “Any” service provided by Government or a local authority

The applicability of Reverse Charge has been extended to “Any” service provided by Government or Local Authority to business entities vide N.N. 18/2016. Earlier only “support services” provided to business entities by Government or Local Authority were covered under reverse charge mechanism.

The above amendment is consequential to inclusion of such services in the negative list where such services are provided by Government or a Local Authority. **(Effective from April 01, 2016)**

Service tax on services by Senior Advocate

Senior Advocates as defined under section 16 of the Advocates Act, 1961, have been brought under the ambit of normal charge of service tax and exemptions available to them have been withdrawn. Thus, mega exemption notification has been amended to tax

the services provided by a senior advocate (N.N. 09/2016). Further, such services have been removed from the ambit of reverse charge mechanism. Thus, such services provided including services provided to Arbitral Tribunal are liable to be taxed by the service provider (N.N. 18/2016). **(Effective from April 01, 2016)**

Amendments to Mega Exemption Notification No 25/2012

I. Following services were added to the Mega Exemption notification vide N.N. 09/2016 :-

-Effective from March 01, 2016

- (a) Services by Indian Institutes of Management to their students, by way of educational programmes except Executive Development Program.
- (b) Services provided to the government, a local authority or a governmental authority by way of construction, erection, commissioning, installation etc of:
 - 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 structure meant predominantly for use as an educational, clinical, art or cultural establishment;
 - c. A residential complex predominantly meant for self-use or the use of their employees or other persons specified. (Applicable till March 31, 2020)
- (c) Civil structure or any other original works pertaining to the 'In-situ rehabilitation of existing slum dwellers using land as a resource through private participation' under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers.
- (d) Civil structure or any other original works pertaining to the 'Beneficiary-led individual house construction / enhancement under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana'.
- (e) low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under the "Affordable Housing in Partnership" of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana or any housing scheme of a State Government.
- (f) Services by way of construction, erection etc of original works pertaining to an airport, port (applicable till March 31, 2020).

-Effective from April 01, 2016:-

- (a) Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship by way way of Skill Development Initiative (SDI) Scheme.
- (b) Services by way of skill or vocational training courses provided under Deen Dayal Upadhyay Grameen Kaushalya Yojana
- (c) Niramaya Health Insurance Scheme implemented by Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.
- (d) The service of life insurance business provided by way of annuity under the National Pension System regulated by Pension Fund Regulatory and Development Authority (PFRDA) of India.
- (e) Services provided by Employees' Provident Fund Organisation (EPFO) to persons governed by the Employees Provident Funds and Miscellaneous Provisions Act
- (f) Services provided by Insurance Regulatory and Development Authority (IRDA) of India to insurers.

- (g) Services provided by Securities and Exchange Board of India (SEBI) by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market
- (h) Services provided by National Centre for Cold Chain Development under Ministry of Agriculture, Cooperation and Farmer's Welfare, Government of India, by way of cold chain knowledge dissemination.
- (i) Services provided by Biotechnology Industry Research Assistance Council (BIRAC) approved biotechnology incubators to incubates.

-Effective from the date of enactment of the Finance Bill, 2016

- (a) Services of specified educational institutions providing education by way of pre-school or education upto higher secondary, or providing education as part of obtaining a qualification recognized by law, or for providing education as a part of approved vocational education course have been made exempt from the levy of service tax. This is consequent to removal of such services from the negative list.

II. Other amendments to the Mega Exemption Notification vide N.N. 09/2016:-

- (a) Service of transportation of passengers by stage carriage removed from the Negative list of services and consequently, exemption inserted for stage carrier other than air-conditioned stage carriage only. Thus, air-conditioned state carriage will now be subject to service tax. **(Effective June 01, 2016)**
- (b) Exemption on the services of transport of passengers, with or without accompanied belongings, by ropeway, cable car or aerial tramway is being withdrawn and is proposed to be covered as taxable service. **(Effective from 1st April, 2016)**
- (c) Monorail and metro projects made taxable w.e.f **March 01, 2016** except where contracts were entered into before March 01, 2016 and on which appropriate stamp duty, was paid,
- (d) The threshold limit for exemption in respect of services provided by a performing artist in folk or classical art forms of music, dance or theatre is enhanced from Rs. 1 Lacs to Rs. 1.5 Lacs per event. **(Effective from April 01, 2016)**

Rationalization of Abatements

-Effective from April 01, 2016

The amendments in the abatements available for different services are as under:-

- ❖ Credit of input services is being allowed on transport of passengers by rail at the existing rate of abatement of 70% (Proposed effective rate 4.2% with input service credit).
- ❖ Credit of input services is being allowed on transport of goods, other than in containers, by rail at the existing rate of abatement of 70% (Proposed effective rate 4.2% with input service credit).
- ❖ Credit of input services is being allowed on transport of goods in containers by rail at a reduced abatement rate of 60% (Proposed effective rate 5.6% with input service credit).
- ❖ Credit of input services is being allowed on transport of goods by vessel at the existing rate of abatement of 70% (Proposed effective rate 4.2% with input service credit).

- ❖ The abatement rate in respect of services by way of construction of residential complex, building, civil structure, or a part thereof, is being rationalized at 70% by merging the two existing rates (70% for high end flats and 75% for low end flats) (Proposed effective rate 4.2%).
- ❖ The abatement rate in respect of services by a tour operator in relation to packaged tour (defined where tour operator provides to the service recipient transportation, accommodation, food etc) and other than packaged tour is being rationalized at 70% (Proposed effective rate 4.2%).
- ❖ The abatement on shifting of used household goods by a Goods Transport Agency (GTA) is being rationalized at the rate of 60%, without CENVAT credit on inputs, input services and capital goods. (The existing rate of abatement of 70% allowed on transport of other goods by GTA continues unchanged) (Proposed effective rate 5.6%).
- ❖ The abatement rate on services of a foreman to a chit fund is being rationalized at the rate of 30%, without CENVAT credit on inputs, input services and capital goods (Proposed effective rate 9.8%).

Indirect Tax Dispute Resolution Scheme, 2016

-Effective from June 01, 2016

Indirect tax Dispute Resolution Scheme, 2016, is being introduced in respect of cases pending before Commissioner (Appeals). The assessee, after paying the duty, interest and penalty equivalent to 25% of duty, can file a declaration under the said scheme. The declaration has to be filed by December 31, 2016.

The format/ procedure and the guidelines would be issued in due course. The scheme would provide immunity from all proceedings and prosecution to such assessee. However, this scheme will not apply in cases:-

- a. Appealable order in respect of search and seizure proceeding.
- b. Where prosecution has already been launched before June 01, 2016.
- c. Involving narcotics & psychotropic substances
- d. Involving detention under Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974.

C. CENTRAL EXCISE

Central Excise Act, 1944

Following amendments to be effective from the enactment of Finance Bill, 2016:-

- a) Section 5A is being amended so as to omit the requirement of publishing and offering for sale any notification issued, by the Directorate of Publicity and Public Relations of CBEC.
- b) Section 11A is amended to increase the period of limitation for issue of Show Cause Notice from one year to two year.
- c) Section 37B is being amended so as to empower the Board for implementation of any other provision of the said Act in addition to the power to issue orders, instructions and directions.

Central Excise Rules, 2002

Following amendments have been made in Central Excise Rules, 2002 vide N.N.08/2016-NT:-

-Effective from March 01, 2016 unless otherwise mentioned:-

- a) Rule 7 -Provisional Assessment has been amended to provide the applicability of interest from the first day after the due date of payment of tax till the date of actual payment of tax, whether such amount is paid before or after the issue of order of provisional assessment.
- b) Rule 8 – amended to extend the benefit of quarterly payment of excise duty to the manufactures of articles of jewellery, other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire, falling under chapter heading 7113 of the First Schedule of the Tariff Act where the clearances for home consumption does not exceed Rs. 12 crores
- c) Rule 11 amended to remove the requirement of manual attestation where invoices meant for transporter are digitally signed.
- d) Rule 12 is amended to provide that every assessee shall be required to submit an Annual Return (substituted against Annual Financial Information Statement” and “Annual Installed Capacity Statement”) for the financial year to which the return relates, by the 30th November of the succeeding financial year. 100% Export Oriented Unit shall also be required to file such return **(Effective from April 01, 2016)**.
- e) Rule 12 further amended to provide that the return filed can be revised by the end of the calendar month in which the original return is filed and “Annual Return” can be revised within one month from the date of submission of the said return **(Effective from the enactment of the Finance Bill, 2016)**.
- f) Rule 17 amended to extend the benefit of revising the return filed by the 100% Export Oriented Unit within the calendar month in which the original return is filed **(Effective from the enactment of the Finance Bill, 2016)**.

CENVAT Credit Rules, 2004

Following amendments have been made in CENVAT Credit Rules, 2004:-

-Effective from April 01, 2016

a) Definition of Capital Goods widened (Rule 2(a))

The definition of “capital goods” amended to include the following:

- (a) Wagons under sub heading 8606 92
- (b) Equipment and appliances used in office
- (c) Capital goods used outside factory for pumping of water for captive consumption in production

b) CENVAT credit available on transport of goods by vessel from India to outside India (Rule 2(e) read with Rule 6(7))

Service provided by vessel by way of transportation of goods from India to a place outside India excluded from “exempted service”. This would allow shipping lines to avail

and utilize CENVAT credit on input, input services & capital goods towards discharge of service tax liability.

c) Definition of Inputs widened (Rule 2(k))

The definition of "inputs" amended to include the following:

- (a) All goods used for pumping of water for captive consumption in production
- (b) All capital goods having value upto Rs 10,000 per piece.

d) Utilization of CENVAT Credit (Rule 3(4))

CENVAT credit shall not be utilized for the payment of Infrastructure Cess.

e) Service tax on assignment by government or any person of right to use natural resources (Rule 4(7))

The ambit of "declared services" has been widened to cover assignment of right to use any natural resources like mines, spectrum etc by government or any other person in favor of a person.

CENVAT credit of service tax on amount charged for such assignment to be availed over the time period for which such rights have been assigned.

f) Amendment in Rule 6 where taxable & exempted goods & services provided

Rule 6 is amended to resolve the conflicting views of various courts on the eligibility of credit on common input and input services. The provision of the revised rule is as under:-

- ❖ No CENVAT credit allowed in relation to input & input services utilized for manufacture of exempted goods or for providing exempted services.
- ❖ Where a taxpayer is manufacturing or providing 2 classes of goods / services - both exempted and non-exempted goods or services, he may opt to reverse the credit on inputs and input services utilized in relation to exempted goods / services as per either Rule 6(3) or 6(3A) as below:

a. **Rule 6(3):** CENVAT credit to be reversed shall be:

- 6% of value of exempted goods and
- 7% or value of exempted services

The maximum amount to be reversed shall not exceed total credit taken.

b. **Rule 6(3A):** This rule prescribes for reversal of CENVAT credit during 12 months pro-rata on the basis of value of exempted goods or services to that of total (exempted and non-exempted) goods or services. Total ineligible credit in relation to be exempted goods or services to be calculated as below:

$$\text{Ineligible credit (A) = Monthly credit attributable directly to exempted goods / services} + \left(\text{Monthly common credit attributable to both exempted and non-exempted goods or services} \times \frac{\text{Value of exempted goods/services during preceding financial year}}{\text{Value of exempted \& non-exempted goods/services during preceding financial year}} \right)$$

Final ineligible credit to be reconciled and paid by 30th June of following financial year as below:

$$\text{Final ineligible credit (B) = Total CENVAT credit attributable directly to exempted goods / services} + \left[\text{Total common credit for the year attributable to both exempted and non-exempted goods or services} \times \frac{\text{Value of exempted goods/services during relevant financial year}}{\text{Value of exempted \& non-exempted goods/services during relevant financial year}} \right]$$

In case the credit reversed on provisional basis during the year exceeds amount determined at the end of year as per above formula (A>B), credit of such excess can be obtained by end of financial year.

- ❖ To avail option under Rule 6(3A), the taxpayer required to file a written intimation to the prescribed authority alongwith the prescribed details.
- ❖ Where the taxpayer fails to reverse credit as per either of the methods above, he may reverse credit as per Rule 6(3A) alongwith interest at 15% per annum, at the discretion of the concerned officer.
- ❖ Transitional provision for reversal of CENVAT credit for exempted goods / services as per existing rule for financial year 2015-16 prescribed.
- ❖ Restriction for availing CENVAT credit on capital goods used in manufacturing of exempted goods or providing exempted services limited to 2 years from date of commencement of commercial production or provision of services. In case of new installation of capital goods after such commencement, period of 2 years to be computed from date of such installation.

g) Scope for distribution of credit for input services by an Input service distributor extended to outsourced manufacturing units

Rule 7 provides the mechanism for distribution of CENVAT credit by an Input Service Distributor (ISD) to its units of manufacturing /service provider. The rule is amended to include **outsourced manufacturing units** as an eligible unit for receipt of CENVAT credit from an ISD. For this purpose, outsourced manufacturing units have been defined as a job worker or a manufacturer involved in manufacturing of goods bearing brand name of the ISD.

The amended rule provides for pro-rata distribution of CENVAT credit by ISD among its units (including outsourced manufacturing units) on the basis of turnover, subject to following conditions:

1. Credit attributable to particular unit to be attributed to that unit only.
2. Credit attributable to certain units should not be attributed to the other units with whom such credit is not related.
3. In case credit is related to all units, such distribution should be attributed to all units based on turnover.

The outsourced units will be required to maintain proper records related to credit received from an ISD and utilize such credit for payment of duty on goods manufactured for that ISD only.

h) New rule 7B inserted for maintaining stock at common warehouse

A manufacturer with multiple manufacturing units can now maintain common warehouse and distribute inputs and credit thereon to its units under the cover of an invoice. Procedure applicable to FSD or SSD shall apply to such warehouse of manufacturer.

i) Invoice for clearance of inputs or capital goods

Service provider can now issue invoice for clearance of inputs or capital goods (Rule 9)

j) New annual return prescribed (Rule 9A)

Manufacturers of final product or output service providers shall be required to file an annual return in the prescribed format by 30th November of the succeeding year. Form is yet to be notified.

The existing requirement of annual declaration of principal inputs and monthly return to be filed by manufacturer of final products is now dispensed w.e.f. April 01, 2016.

Miscellaneous

a) Introduction of Infrastructure Cess as a duty of excise

(Notification No 01/2016-Infrastructure Cess, Effective from March 01, 2016)

An Infrastructure Cess, as a duty of excise, is imposed on motor vehicles at the following rate, without input tax credit of the proposed cess :

Applicability	Rate of Cess
Three wheeled vehicles, Electrically operated vehicles, Hybrid vehicles, Hydrogen vehicles based on fuel cell technology, Motor vehicles which after clearance have been registered for use solely as taxi, Cars for physically handicapped persons(subject to prescribed conditions), and Motor vehicles cleared as ambulances or registered for use solely as ambulance	Nil
Petrol/LPG/CNG driven motor vehicles of length not exceeding 4m and engine capacity not exceeding 1200cc	1%
Diesel driven motor vehicles length not exceeding 4m and engine capacity not exceeding 1500 CC	2.50%
On all categories of motor vehicles other than those listed above	4%

b) Clean Energy Cess

(Clean Energy Cess Notifications 01/2016 and 02/2016, Effective from Enactment of Finance Bill, 2016)

The Schedule Rate of Clean Energy Cess, levied on coal, lignite and peat, increased from Rs.300 per tonne to Rs.400 per tonne. Further, the Clean Energy Cess is being renamed as **Clean Environment Cess**.

Clean Energy Cess on all goods produced or extracted as per traditional and customary rights enjoyed by local tribals without any license or lease in the State of Nagaland fully exempted.

c) Jewellery Manufacturers

I. Manufacturer of articles of jewellery may opt for Centralised registration under Central Excise

Every manufacturer of jewellery may opt for **centralized central excise registration** and shall be exempt from single premise registration for each manufacturing factory or premises engaged in manufacture or production of jewellery provided the following conditions are satisfied:

- a. Articles of jewellery exclude articles of silver jewellery but includes of articles of silver jewellery studded with diamond, ruby, emerald or sapphire etc;
- b. Manufacturer of such goods has a centralized billing or accounting system in respect of the specified goods manufactured or produced by different factories or premises;
- c. The factory/ premise/ office where Centralised billing or accounting is done is proposed for centralized registration;
- d. The accounts/ records showing receipts of raw materials and finished excisable goods manufactured or received back from job workers are kept;
- e. Details of all premises from where the specified goods are removed for domestic clearance to be submitted for availing the exemption.

(Notification No.05/2016 (N.T.) and 06/2016 (N.T.) Effective from March 01, 2016)

II. CBEC has provide the SSI exemption for the manufacturer of jewellery

Basic Excise Duty of 1% (without Cenvat Credit) and 12.5% (with Cenvat Credit) imposed on Articles of Jewellery [excluding articles of silver jewellery, other than those studded with diamonds, ruby, emerald or sapphire].

Enhanced SSI threshold exemption of Rs. 6 crore prescribed for such jewellery manufacturers with a corresponding increase in eligibility limit to Rs. 12 crore in the preceding financial year. For the month of March, 2016, the SSI exemption for such articles of jewellery is being restricted to Rs. 50 lakh. A certificate from chartered accountant is required for determining eligibility to avail the SSI Exemption i.e. a certificate for clearances made in 2014-15 /2015-16 is required for claiming exemption of SSI in 2015-16/ 2016-17 respectively.

(Notification No. 05/2016, 06/2016, 12/2016 (Tariff) dated 1st March, 2016)

III. Miscellaneous amendments

- a. The existing location based excise duty exemption for production of gold and silver from gold dore, silver dore or any other raw material is being prospectively withdrawn for new industrial units or substantial expansion by existing units, which commences commercial production on or after 1st day of March, 2016.
- b. Basic Excise duty enhanced on following goods:
 - Gold bars manufactured from gold ore or concentrate; gold dore bar and silver dore bar - **from 9% to 9.5%**
 - Gold bars and gold coins of purity not below 99.5%, produced during the process of copper smelting - **from 9% to 9.5%**
 - Silver manufactured from silver ore or concentrate; silver dore bar and gold dore bar - **from 8% to 8.5%**
 - Silver in any form, except silver coins of purity below 99.9%, produced during the process of copper smelting - **from 8% to 8.5%**

- Silver produced during the process of zinc or lead smelting - **from 8% to 8.5%**

(Notification No. 05/2016, 06/2016, 12/2016 (Tariff) dated 1st March, 2016)

d) Optional levy for domestic manufacturers of branded readymade garments

Excise duty of 2% (without CENVAT) and 12.5% (with CENVAT) is being imposed on all readymade garments and made up articles of textiles bearing a brand name or sold under a brand name and having retail sale price (RSP) of Rs. 1000 and above, regardless of the composition of such garments or made up articles. The tariff value for readymade garments and made up articles of textiles increased from 30% to 60% of the RSP.

SSI threshold exemption for the month of March, 2016 for branded readymade garments is restricted to Rs. 12.50 lakh

(Notification No. 07/2016, 09/2016, 15/2016 (Tariff) and 11/2016 (N.T.) dated 1st March, 2016)

e) Time limit for filing refund application in case of export of services

(Notification No. 14/2016- NT, dated 1st March, 2016)

Refund application can be filed for export of services by service provider before the expiry of one year from the date of:-

- ❖ Receipt of payment in convertible foreign exchange, where provision of service had been completed prior to receipt of such payment; or
- ❖ Issue of invoice, where payment for the service had been received in advance prior to the date of issue of the invoice.

f) Single registration for related premises under same jurisdiction of Range Superintendent

(Notification No. 19/2016-NT Effective from March 01, 2016)

Single Registration of multiple premises of a same factory has been allowed if the premises are located within a close area in the jurisdiction of a Range Superintendent and have interlinked manufacturing process. The facility is not meant for units under area based exemption.

g) Certificate of Chartered Engineer mandated for Rebate for export of goods

(Notification No. 21/2016-NT dated 1st March, 2016)

Principal refund notification amended to include a certificate of Chartered Engineer in respect of correctness of the ratio of input and output where a copy of the Standard Input Output Norms notified by Director General of Foreign Trade (DGFT) along with the declaration the in order to claim rebate under Rule 18 of Central Excise Rules, 2002. On the basis of such declaration and certificate, the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise may grant permission to the applicant for manufacture or processing and export of finished goods before commencement of such export.

h) Valid agreement required to avail excise duty concessions

(Notification No. 14/2016 Effective from March 01, 2016)

Power generation project based on municipal and urban waste, valid agreement between importer with urban local body for processing of municipal solid waste for not less than ten years from the date of commissioning of project is being prescribed for availing

customs and excise duty concessions as an alternative to the existing condition of "production of valid power purchase agreement between the importer/producer of power and the purchaser, for the sale and purchase of electricity generated using non-conventional materials".

D. Customs

Customs Act, 1962

The following shall become effective on enactment of the Finance Bill:-

- a. Section 2(43) amended to include Special Warehouse licensed under Sec 58A in the definition of 'warehouse' for enabling storage of specific goods under physical control of department whereas, control over the other types of warehouses would be only record based. Consequently,
 - ❖ Section 2(45) which defines 'warehousing station' is being omitted.
 - ❖ Section 9, Power to declare places to be warehousing stations is omitted.
 - ❖ Chapter heading of Chapter III is being amended to omit the word 'warehousing station'.
- b. Section 25 is being amended so as to omit the requirement of publishing and offering for sale, the notification issued by directorate of Publicity and Public relation of CBEC.
- c. Section 28 amended to grant power to recover taxes which are not paid or short paid.
- d. Section 28 has been amended to increase period of limitation from one year to two year in cases not involving fraud, Suppression of fact, willful misstatement.
- e. Section 47 and Section 51 amended to provide powers to central government to permit certain class of importers to make deferred payment of import duty or any other charge as specified by rules, by notification in official gazette.
- f. Section 53 is amended so as to enable the board to frame regulation for allowing transit of certain goods and conveyance without payment of duty.
- g. Section 57 , 58 has been amended and the power to appoint, license, cancel the license, suspending the license of public, private and special warehouse has been transferred from Assistant Commissioner or Deputy Commissioner to Principal Commissioner/ Commissioner of customs, subject to the conditions which may be prescribed.
- h. Section 58A inserted to license the **Special Warehouse** wherein the specific class of dutiable goods will be kept under the control of proper officer. Class of goods will be notified by the board in official gazette.
- i. Section 58B inserted to regulate the process of cancellation of licenses.
- j. Section 59 has been substituted now the amount of warehousing bond which is payable by importer has been increased to three times from two times the amount of duty assessed on goods along with the security amount as may be prescribed.
- k. Section 60 has been amended to provide powers to CBEC to make rules and procedure for deposit of goods in warehouse.
- l. Section 61 substituted to provide the time limit for removal of all goods intended for use in any 100% EOU, Electronic Hardware Technology Park or Software

Technology Park or any warehouse wherein manufacture or other operations have been permitted has been amended. Also, at a time the principal commissioner and commissioner can extend the time period of warehousing up to one year.

- m. Section 62 and Section 63 has been omitted related to control over warehouse and payment of rent and warehouse respectively. Consequently, section 68 and section 69 are amended for corresponding changes.
- n. Section 64 has been substituted to rationalize the facilities available with the owner of warehoused goods. Consequentially, section 72 amended for corresponding changes.
- o. Section 65(1) has been amended to transfer power to Principal Commissioner or Commissioner of custom from Assistant Commissioner or Deputy Commissioner of customs to give permission to owner of any warehouse goods to carry any manufacturing process or other operation on such goods.
- p. Section 71 amended to substitute word "Export" from "Re-exportation".
- q. Section 73A inserted to provide the responsibilities of warehouse keepers.

Customs Tariff Act, 1975

- **Effective from April 01, 2016**

- a. **Baggage Rules, 1998** have been amended by **Baggage Rules, 2016** according to which duty free allowance shall be allowed as follows:-

Passenger arriving from countries other than Nepal, Bhutan or Myanmar	Item	Limit in Rupees
Indian Resident, Foreigner residing in India and tourist of Indian origin	Used personal effects Travel souvenirs Article other than as specified in annexure-I	Upto. Rs. 50000
Tourist of foreign origin	Used personal effects Travel souvenirs Article other than as specified in annexure-I	Upto. Rs. 15000
Passenger arriving from countries Nepal, Bhutan or Myanmar	Used personal effects Travel souvenirs Article other than as specified in annexure-I	Upto. Rs. 15000

- b. Duty free allowance in respect of jewellery for an Indian passenger residing abroad for more than one year on his return to India Shall be allowed 20 gram with value cap of ,In case of female passenger Up to Rs. 1,00,000/- and for male passenger Up to Rs. 50,000/- (N. No. 30/2016 Customs-NT dated March 01, 2016).

- c. Any person, who is engaged in profession abroad on transferring his resident to India shall be allowed clearance free of duty abroad as per appendix II.
- d. Baggage declaration only to be made if the passenger has something to declare (N. No. 31/2016 Customs-NT dated March 01, 2016).

Disclaimer

This publication has been carefully prepared, but it has been written in general terms and should be seen as broad guidance only. The publication cannot be relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained therein without obtaining specific professional advice. Please contact VJA member firm to discuss these matters in the context of your particular circumstances



100, Babar Road, Opposite Hotel Lalit, New Delhi – 110001
Phone: 011-23354546, 23354547
Mail: mail@vedjainassociates.com
www.vedjainassociates.com