(Brief Updates from the world of Tax and Finance)



I. Direct Taxes

A) Income tax Slab rates/changes in rates

1 Taxation of Income by way of Royalty or Fees for Technical Services

Tax rate in respect of any income by way of royalty and fees for technical services under an agreement entered into after 31.03.1976 u/s 115A received by a non resident taxpayer, has been increased from 10% to 25% (Effective Date- April 1, 2014).

2 Rebate of ₹ 2000 for individuals having total Income upto ₹ 5 Lacs

Without effecting the existing tax slabs, rebate u/s 87 of ₹ 2,000 or income tax payable whichever is less is proposed to be available to those individual tax-payers (Resident Male or Female) having income upto ₹ 500,000.

3 Increase in surcharge only for one year.

Non-Corporate Assesses:	10% of the tax where total income exceeds ₹ 1 Crore	
Corporate Assessee :	5% where total income exceeds ₹ 1 Crore and	
	10% of the tax where total income exceeds ₹ 10 Crore	
Foreign Companies :	2% of the tax where total income exceeds $\ \ensuremath{\overline{\tau}}\ 1$ Crore and	
	5% where total income exceeds ₹ 10 Crore	
Dividend distribution tax :	Surcharge increase from 5% to 10%	

4 Keyman Insurance Policy is taxable on its maturity.

Any sum received under Keyman insurance policy on its maturity is taxable even if it is assigned before maturity and the person in turn pays the remaining premium on the policy on the ground that it is no longer a keyman insurance policy and is a life insurance policy. It has been clarified that Keyman Insurance Policy whether assigned to any other person with or without consideration shall be treated as keyman insurance policy and shall be taxable on its maturity. **(Effective Date 01 April, 2014)**.

B) Deductions

5 Extension of the sunset date under section 80IA for the power sector

The tax holiday period of claiming 100% deduction u/s 80IA(4)(iv) for undertaking engaged in generation and distribution of power, laying of distribution and transmission lines and engaged in renovation and modernization of existing transmission lines has been further extended by a year till March 31, 2014.

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6 Additional Deduction of Interest upto ₹1 Lakh on Home Loan for First Home Buyer

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A new section 80EE introduced for home buyers and additional deduction of ₹ One lakh on interest payments of their first home loan of up to 25 lakhs for the value of the property not more than 40 Lacs has been provided. The above deduction of interest of ₹ 1 lakh is to be claimed in AY 2014-15. If the limit is not exhausted, the balance may be claimed in AY 2015-16. This deduction can only be claimed once in lifetime by an assessee and only for A.Y. 2014-15 and 2015-16 (Effective Date- April 1, 2014).

7 100% deduction of donation made to National Children's Fund

It is proposed to amend section 80G to include donations made to the 'National Children's Fund' in the list of funds where deduction of 100% of the amount donated is allowed to the assessee. Earlier, the deduction in respect of the donations made to this fund was restricted to 50% of the amount donated (Effective Date- April 1, 2014).

8 Raising the limit of percentage of eligible premium for life insurance of persons with disability or disease.

To provide benefit to those covered in person of disability or a person with severe disability as referred to in section 80U or person suffering from disease or ailment as specified in the rules made under section 80DDB, paying higher insurance premium beyond the ceiing limit of 10% of capital sum assured, it is proposed to amend section 80C and section 10(10D) to increase such ceiling limit to 15%.

9 Benefit of Rajiv Gandhi Equity Saving Scheme extended.

With the view to give varied choice to the retail investor for investment in equity schemes following amendments have been made:

- i. Investment period increased from one year to three consecutive years.
- ii. Eligibility of gross total income increased from ₹ Ten lakhs to ₹ Twelve lakhs.
- iii. The scope of investment which was limited to listed equity shares is being expanded so as to include listed units of an equity oriented fund.

10 Cash Contribution to any Political Party or an Electoral Trust shall not be allowed as deduction.

Any sum contributed by an Indian company or any other person (except Local Authority & Artificial judicial person) to any political party or an electoral trust in the previous year, is allowed as deduction U/S 80GGB & 80GGC respectively only if it is made by way of cheque, draft etc. No cash contributions will be allowed as deduction. (Effective Date 01 April, 2014).

11 Deduction only to Indian Company deriving profits from manufacture of goods in its factory

Section 80JJA has been amended to clarify that deduction shall only be available to an Indian Company deriving profits from manufacture of goods in its factory. Previously, such deduction was allowed to industrial undertaking which was also being claimed by software exporters (Effective Date 01 April, 2014).



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12 Schemes other than CGHS are also considered for the purposes of Deduction u/s 80D

Deduction under section 80-D is eligible for contributions made to the Central Government Health Scheme. It is proposed to extend the same benefit if contributions made to similar notified schemes of the Central Government and State Governments. (Effective Date- April 1, 2014).

C) Exemption

13 Exemption extended to 'Investor Protection Fund' set up by Depository

Under the existing provision of Section 10(23EA), income by way of contribution from recognized stock exchange received by an investor protection fund setup by such exchange is exempt. On similar lines it is proposed to insert Sec. 10(23ED), which provides that income of investor protection fund setup by Depository in accordance with the Regulation prescribed by SEBI should also get exemption subject to the same condition as are applied to investor protection fund setup by recognized stock exchange.

14 Securitisation Trust to be Exempted from Income Tax

To facilititate the financial institutions to securitise their assets through a special purpose vehicle ,the Finance Bill 2013 proposes to exempt the Income earned by Securitisation Trust from Income Tax (Earlier marginal rates were charged). However, Tax shall be levied at the time of distribution of income by the Securitisation Trust at the rate of 30 percent in case of companies and at the rate of 25 percent in the case of an individual or HUF. No further tax will be levied on the income received by the investors from the Securitisation Trust.

D) Commodity Transaction Tax

15 Commodity Transaction Tax (CTT)- eligible for deduction under Section 36.

A new tax like STT, commodity transaction tax has been introduced which is levied on sale of non-agricultural commodity derivative, traded in recognized stock exchanges. Payment of commodity transaction tax shall be allowed as a deduction u/s 36 of I Tax Act where income arising from commodities transaction is included under business income. The treatment is aligned with the treatment in respect of securities transaction tax.

E) Profits and Gains from Business or Profession

16 Additional deduction in respect of acquisition and installation of new plant or machinery by manufacturing company

To encourage investment of plant or machinery by manufacturing company a new section 32AC has been proposed to be inserted whereby additional deduction will be available from the income under the head profit & gains from business & profession in the following manner.

For AY 2014-15 A deduction of 15% of aggregate amount of actual cost of new assets acquired and installed during f/y2013-14, if cost of such asset exceeds ₹ 100 Cr.



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For AY 2015-16 Further, deduction of 15% of cost of new asset acquired and installed on 1st April, 2013 and ending on 31st March, 2015, as reduced by the deduction allowed, if any, for assessment year 2014-15.

17 Disallowance of certain fee, charges, etc. in the case of State Government Undertakings

Section 40 of the I Tax Act has been amended to clarify that any amount paid by way of fee, charges, etc. which is levied by the State Government exclusively on State government undertaking shall not be allowed as deduction. (Effective Date 01 April, 2014)

18 Now Stamp Duty Rate Valuation applies to Builders also.

A new section 43CA has been inserted to provide that all those person who held the land or/and building as stock-in trade(Real estate developers) shall be liable to adopt full consideration as stamp value or actual sale consideration whichever is high. Also, where any amount has been received in mode other than cash before the date of agreement and there is the gap between date of agreement and date of registeration then date of agreement shall be deemed to be the date on which transfer took place. (Effective Date 01 April, 2014)

19 Clarification for the amount to be eligible for deduction as Bad- Debts in case of banks U/S 36(i)(vii)

It has been clarified that while claiming any deduction under section 36(1)(vii) where deduction is allowed in respect of bad debts actually written off the amount available in the provision under section 36(1)(viia) where deduction is allowed to the banks in respect of provision for bad and doubtful debts which include rural advances and other advances would be adjusted first and any bad debt actually written off in excess of the above shall only be eligible for deduction under section 36(1)(vii).

F) Foreign Company / Non Resident

20 Lower rate of tax on dividends received from foreign companies

The Finance Bill, 2013 proposes to extend the concessional tax rate of 15% (plus surcharge of 10% and education cess of 3%) on dividend received from specified foreign company by Indian Company (in which it has shareholding of 26% or more) for one more year i.e. for the financial year ending 31 March 2014.

21 Removal of the cascading effect of Dividend Distribution Tax (DDT)

To remove the cascading effect of DDT in respect of dividend received by a domestic company from its foreign subsidiary it has been provided that where the tax on dividends received from the foreign subsidiary is payable under section 115BBD by the holding domestic company then, any dividend distributed by the holding company in the same year, to the extent of such dividends received from the foreign subsidiary, shall not be subject to Dividend Distribution Tax under section 115-O of the Income-tax Act.

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22 Tax Residency Certificate

Tax residency Certificate was introduced in Finance Bill, 2012 wherein every non-resident has to obtain a certificate from the Government of the country in which such person is a resident for evidencing such person's residency in that country. Now, It is proposed to amend section 90 & 90A in order to provide that submission of tax residency certificate is necessary but not a sufficient condition for claiming benefits under DTAA. These foreign transactions will be under the scrutiny of Income tax department. (Retrospectively Effective Date 01 April, 2013)

23 Additional Income Tax on distributed income by company for buy-back of unlisted shares

A new Section 115-QA has been inserted to levy dividend distribution tax on an unlisted Indian company on buy back of its shares. The tax payable shall be 20% of the distributed income. 'Distributed income' shall be consideration paid by the company on buy back of shares as reduced by the amount which was received by the co. for issue of such shares. In such cases, the consideration received by way of buy-back of shares shall be exempt in the hands of shareholder u/s 10(34A). (Effective Date 01 June, 2013).

24 Increase in tax on income distributed by mutual funds

In order to provide uniform taxation for all types of funds, other than equity oriented fund, it is proposed to increase the rate of tax on distributed income by Mutual fund companies from 12.5% to 25% in all cases where distribution is made to an individual or a HUF. Also, to make parity in taxation of income from investment made by a non-resident Investor in an Infrastructure Debt Fund (IDF) whether set up as a IDF-NBFC or IDF-MF, it is proposed to amend section 115R to provide that tax @ 5% on income distributed shall be payable in respect of income distributed by a Mutual Fund under an IDF scheme to a non-resident Investor (Effective Date 01 June, 2013).

G) Tax Deducted at Source

25 Concessional rate of withholding tax on interest in case of certain rupee denominated long-term infrastructure bonds

Section 194LC has been amended to provide that where a non-resident deposits foreign currency in a designated bank account and such money as converted in rupees is utilised for subscription to a long-term infrastructure bond issue of an Indian company, then, for the purpose of this section, the borrowing by the company shall be deemed to be in foreign currency. The benefit of reduced rate of tax of 5% would, therefore, be available to such non-resident in respect of the interest income arising on such subscription subject to other conditions provided in the section.

26 TDS on Transfer of Immovable Properties (Other than Agricultural Land)

A new section 194-IA has been inserted which provides that every transferee at the time of making payment/crediting any sum for transfer of immovable property to a resident transferor shall deduct TDS @ 1% provided the amount of consideration is 50 Lacs or more. (Effective Date 01 June, 2013).

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H) Search and Seizure

27 Application of Seized assets U/S 132B

Seized assets U/S 132B may be adjusted against any "existing liability" under Income Tax Act, Wealth Act, Expenditure Act, Gift Tax Act and Interest Tax Act etc. Now, it is being clarified that "existing liability" does not include Advance tax payable by the assessee (Effective Date 01 June, 2013).

I) Income from Other Sources

28 Taxability of Immovable Property received for Inadequate Consideration

As per Section 56(2)(vii) any immovable property received by Individual or HUF from any person (except specified persons e.g. relative, under a will etc) inadequate/without (earlier without only) any consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property would be charged to tax as income from other sources. Also, where any amount has been received in mode other than cash before the date of agreement and there is the gap between date of agreement and date of registeration then date of agreement shall be deemed to be the date on which transfer took place. (Effective Date 01 April, 2014)

J) Penalties

29 Penalty U/S 271 FA for non-filing of Annual Information Return

Where a person who is required to furnish an annual information return fails to furnish the return within the period specified in the notice under sub-section (5) of section 285BA, he shall pay, by way of penalty, a sum of five hundred rupees for every day during which the failure continues, beginning from the day immediately following the day on which the time specified in such notice.(Effective Date 01 April, 2014)

K) Time Limit

30 Extension of time for grant of recognition to Provident Fund

Time limits to meet the conditions which are required to be satisfied by a Provident Fund which were recognized before 31.3.2006 for receiving or retaining recognition under the Income-tax Act shall be extended to 31.3.2014.

31 Exclusion of time in computing the period of limitation for completion of assessments and reassessments

It is proposed that the period of limitation for completion of assessment and reassessment u/s 153A shall stand extended in case the direction of the assessing officer for special audit under section 142(2A) is set aside by the Court. The extension shall be for the period commencing from the date on which the assessing officer directs the assessee for special audit and ending with a date on which orders setting aside such direction is received by the Commissioner while computing the period of limitation for the purpose of Section 153. (Effective Date 01 June, 2013)



32 General Anti Avoidance Rules (GAAR)

GAAR which was introduced in Finance Act 2012 has been deferred to come in to force from 1.4.2016 with the modified provisions. A number of representations were received against the new provisions. An expert committee was constituted to consult stakeholders and finalize the GAAR guidelines. These decisions are now being incorporated in the Income-Tax Act.

L) Miscellaneous

At a Glance

33 Clarification of the phrase "tax due" for the purpose of recovery in certain cases

Section 179 & 167C deals with joint & several liability of director or partner where company or LLP fails to pay tax due. It is clarified that "tax due" for the purpose of recovery U/S 179 and 167C includes penalty, interest or any other sum payable under the Act (Effective Date 01 June, 2013).

34 Return of Income filed without payment of self-assessment shall be considered as Defective Return

Return of income filed without payment of self assessment tax shall be deemed to be defective return u/s 139(9) and assessee filing such return would have to face consequences on account of non-filing of return. (Effective Date 01 June, 2013).

35 Scope of Direction of Special Audit U/S 142(2A)

Scope of Directions issued by the Assessing Officer to get the accounts of the assessee audited by an accountant and furnish a report of such audit with prior approval of the Chief Commissioner/ Commissioner has been amended. Thus directions can be issued having regard to the nature and complexity of the accounts, volume of accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialized nature of business activity of the assessee and interests of the revenue.

36 Amendment in definition of Capital Asset

Agricultural Land shall qualify as Capital Assets if any of the below mentioned condition is satisfied otherwise it would be considered as Rural Agricultural Land not a Capital Asset (Effective Date 01 April, 2014):-

Conditions	Population of the Area	Distance from local limits of any municipality or cantonment board
1	> 10,000 but < 1,00,000	Not more than 2 Km
2	> 100,000 but < 10,00,000	Not more than 6 Km
3	> 10,00,000	Not more than 8 Km





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M) Wealth Tax

37 Enabling provisions for facilitating electronic filing of annexure-less return of net wealth

New Sections 14A and 14B shall be inserted in Wealth Tax for facilitating electronic filling of annexure-less return of net wealth. These sections will be in similar lines with 139C & 139D of Income Tax Act.

Further Section 46 has been amended in order to provide power to the board to make rules in this regard (Effective Date 01 June, 2013).

II. <u>Excise</u>

A) Central Excise Act, 1944

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

- a. Provision of upto 7 years of imprisonment for offences under section 9 relaxed from ₹ 30 lakhs to ₹ 50 lakhs (Section 9). This monetary limit had been revised last year from ₹ 1 lakh to ₹ 30 lakhs.
- b. Certain offences under section 9 where duty leviable is more than ₹ 50 lakhs related to the evasion of duty and contravention of provisions of the act and the rules made there under are made cognizable and non-bailable (Section 9A).
- **c.** Subsequent to above, provisions of Section 20 and Section 21 amended to make its provisions applicable only on offences which are non-cognizable. Thus, wherein the offence is cognizable the person cannot be admitted to bail or personal bond.
- d. Modes of Recovery of duties widened to include (Section 11):
 - i. Recovery of duties by another Central Excise Officer or the Customs officer as required by the Central Excise Officer.
 - Recovery of duties from person other than from whom money is due i.e. person who holds money for or on account of the first person from whom money is due. Such person is bound to comply with notice served under the act and provisions of the act would be applicable as person from whom money is due under the act.
 Similar amendment made in the Customs Act, 1962.

e. Section 11A amended to provide wherein a statement containing details of duty not paid, short levied or erroneously refunded is served on the assessee subsequent to notice(s) served under section 11A such statement served shall be deemed to be a service of notice.

- **f.** Section 11DDA amended to align with section 11A. Thus, subject to the conditions mentioned in Section 11DDA, provisions of provisional attachment of property would now apply to any notice served under section 11A.
- g. Definition of "Activity" under Section 23A (a) amended to include any new business of production and manufacturing proposed to be undertaken by the existing producer or manufacturer. Similar amendment made in the Customs Act, 1962.
- h. The scope of admissibility of application for Advance Ruling has been enhanced to include credit of service tax paid or deemed to have been paid on input services (Section 23C).



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- i. Section 23F amended to make the advance ruling order under section 23D void for conditions mentioned in the section.
- **j.** Proviso to Section 35C added to empower Tribunal, in cases where delay in disposing of the appeal is not attributable to the appellant, to extend the period of stay by a period not more than 185 days subject to the condition that if the appeal is not disposed of within the total period of 365 days from the date of order, the stay shall stand vacated. Similar amendment made in the Customs Act, 1962.
- k. Section 35D amended to increase monetary limit of the Single Bench of the Tribunal to hear and dispose of appeals from ₹ 10 Lakhs to ₹ 50 Lakhs. Similar amendment made in the Customs Act, 1962.
- Section 37 has been amended to include speed post and courier approved by the Central Board of Excise & Customs for the purpose of service of any order/ decision/ summon.

B) Other Amendments

Notifications effective from March 1, 2013:-

- a. Rule 7 of Central Excise Rules, 2002 amended to align it with the Section 11BB of the Central Excise Act, 1944 in respect of payment of interest in case of refund (Central Excise (Amendment) Rules, 2013), (N. No. 02/2013 CE-NT dated March 01, 2013).
- b. Explanation to Rule 3(5B) added to CENVAT Credit Rules, 2004 provide the recovery of amount payable in certain cases in the manner as specified in Rule 14 of the CENAVT Credit Rules, 2004 (CENVAT Credit (Amendment) Rules, 2013), (N. No. 03/2013 CE-NT dated March 01, 2013).
- **c.** "The resident public limited company" included under the class of persons who can make application for advance rulings (N. No. 04/2013 CE-NT dated March 01, 2013).

C) Central Excise Tariff Act, 1985

No change in standard rate of excise duty i.e. 12%. Sector Specific Amendments brought up to be effective from March 1, 2013:-

a. Agriculture/Agro Processing/Plantation Sector:

Exemption from excise duty on **tapioca sago (sabudana)**, **tapioca starch** manufactured and consumed captively in the manufacture of tapioca sago, **henna powder or paste**, not mixed with any other ingredient and **Peanut Butter** (N. No. 12/2013 CE dated March 01, 2013).

b. Automobiles:

- i. Excise duty on Sports Utility Vehicles (SUVs) increased from 27% to 30%. SUVs registered solely for use as taxis will not suffer additional excise duty consequent to the increase in excise duty on SUVs from 27% to 30%. Taxi refund in respect of SUVs is being adjusted accordingly (N. No. 12/2013 CE dated March 01, 2013).
- Excise duty on truck chassis (8706 00 42) is reduced from 14% to 13% (N. No. 12/2013 CE dated March 01, 2013).





c. Metals:

- i. Excise duty of 4% is levied on **silver** manufactured from zinc/lead smelting (N. No. 12/2013 CE dated March 01, 2013).
- Compounded levy on stainless steel "Patta Patti" is being increased from ₹ 30,000 per machine per month to ₹ 40,000 per machine per month (N. No. 05/2013 CE dated March 01, 2013).
- iii. It is being clarified that the item "trimmed or untrimmed sheets or circles of copper intended for use in the manufacture of handicrafts or utensils" presently leviable to excise duty at ₹ 3500 per MT includes copper and copper alloys including brass (N. No. 12/2013 CE dated March 01, 2013).

d. Aircrafts & Ships:

Exemption from excise duty is being provided on **ships and other vessels**. Consequently, there will be no CVD on these ships and vessels when imported (N. No. 09/2013 CE & N. No. 12/2013 CE dated March 01, 2013).

e. Textiles:

- i. Full exemption from excise duty is being provided on hand made carpets and carpets and other textile floor coverings of coir or jute, whether or not handmade (N. No. 09/2013 CE, N. No. 10/2013 CE & N. No. 12/2013 CE dated March 01, 2013).
- ii. 'Zero excise duty route', as existed prior to Budget 2011-12, is being restored in respect of branded readymade garments and made ups. In the case of cotton there will be zero duty at the fibre stage and, in the case of spun yarn of manmade fibres, there will be a duty of 12% at the fibre stage. The 'Zero excise duty route' will be in addition to the CENVAT route now available (N. No. 08/2013 CE & N. No. 11/2013 CE dated March 01, 2013).

f. Health:

Branded **Ayurvedic medicaments and medicaments of Unani, Siddha, Homeopathic or bio-chemic system** are being brought under MRP based assessment with abatement of 35% from MRP. Tariff item 31A added to Third Schedule of Central Excise Act, 1944 (N. No. 01/2013 CE-NT dated March 01, 2013).

g. Electronics/Hardware:

Excise duty on **mobile phones** of retail sale price exceeding ₹ 2,000/- is being increased from 1% to 6% (N. No. 06/2013 CE & N. No. 12/2013 CE dated March 01, 2013).

h. Miscellaneous:

- i. Excise duty on **cigarettes** is being increased by about 18% on all cigarettes except cigarettes of length not exceeding 65 mm. Cigars and cigarillos duty is also being similarly raised.
- ii. Excise duty on marble tiles and slabs is being increased from ₹ 30 per sq. mtr to ₹ 60 per sq. mtr (N. No. 12/2013 CE dated March 01, 2013).
- **iii.** Full exemption from excise duty is being provided to **intermediate goods** manufactured and consumed captively by exempted units under Area Based

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Exemption Scheme in **Himachal Pradesh and Uttarakhand** (N. No. 07/2013 CE dated March 01, 2013).

III. <u>Customs</u>

A) Customs Act, 1962

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

- a. Section 11(2) amended to include Designs and Geographical Indications under the list of goods/ things where the Central Government is empowered to prohibit import/ export of goods.
- b. Application/ Show cause notice for Refund/ Demand of amount less than ₹ 100 cannot be made (Section 27 and Section 28).
- **c.** Provisions of provisional attachment extended in cases of collusion, any willful miss-statement, suppression of facts (Section 28BA)
- **d.** Definition of "Activity" under Section 28E(a) amended to include any new business of import and export proposed to be undertaken by the existing importer or exporter. Similar amendment made in the Central Excise Act, 1944.
- **e.** Section 29 has been amended to empower the Board to permit landing of vessels and aircrafts at any place other than customs port or customs airport.
- **f.** Section 30 and 41 amended to provide the electronic filing of import/ export manifest. Further, commissioner of customs may provide any other means for filling of import/ export manifest in case electronic filing is not possible.
- g. The interest free payment period of import duty has been reduced to 2 days from 5 days (Section 47).
- **h.** The period of Storage of imported goods in warehouse pending for clearance in public or private warehouse has been restricted to 30 days with an extension of further 30 days with the permission of Commissioner of customs (Section 49).
- i. Section 69 amended to include the export of goods without payment of duty on the basis of presentation in form of label or declaration accompanying the goods as referred to in section 82. Specified forms of presentation were with shipping bill, bill of export.
- **j.** Budget 2012 made the offences under section 135 where imprisonment was for 3 years or more to be cognizable under Section 104. Now, section 104 has been amended to make certain offences as mentioned below to be non-bailable:
 - i. evasion or attempted evasion of duty exceeding ₹ 50 lakhs
 - **ii.** prohibited goods notified by central government
 - iii. import or export of any goods which have not been declared in accordance with the provisions of this Act and the market price of which exceeds ₹ 1 crore.
 - iv. Fraudulently availing of or attempt to avail of drawback or any exemption from duty provided under this Act, if the amount of drawback or exemption from duty exceeds ₹ 50 lakhs.
- **k.** Proviso to Section 129B added to empower Tribunal, in cases where delay in disposing of the appeal is not attributable to the appellant, to extend the period of stay by a period not more than 185 days subject to the condition that if the appeal is not disposed of within the total period of 365 days from the date of order, the stay shall stand vacated. Similar amendment made in the Central Excise Act, 1944.

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- I. Section 35D amended to increase monetary limit of the Single Bench of the Tribunal to hear and dispose of appeals from ₹ 10 Lakhs to ₹ 50 Lakhs. Similar amendment made in the Central Excise Act, 1944.
- m. Monetary limit for offence relating to evasion or attempted evasion of duty or fraudulently availing of or attempting to avail of drawback or any exemption has been increased from ₹30 lakhs to ₹ 50 Lakhs (Section 135(1)).
- **n.** Modes of Recovery of duties widened to include recovery of duties from person other than from whom money is due i.e. person who holds money for or on account of the first person from whom money is due. Such person is bound to comply with notice served under the act and provisions of the act would be applicable as person from whom money is due under the act (Section 142). Similar amendment made in the Central Excise Act, 1944.
- **o.** Section 143A has been omitted since it has become redundant as the export promotion schemes have undergone a complete change.
- p. Section 144 is being amended to remove the monetary limit of ₹ 5 on the duty liability on any sample of goods which is consumed or destroyed during the course of testing or examination.
- **q.** The word Customs house agents have been replaced by Customer brokers considering the global practices and internationally accepted nomenclature (Section 146 and 146A).
- **r.** Section 147 is being amended to expand the scope of the liability of agents of the owner, importer or exporter of any goods.

B) Customs Tariff Act, 1975

- a. Under Baggage Rules, 1998 duty free allowance in respect of jewellery for an Indian passenger residing abroad for more than one year or person transferring his residence to India has been increased in case of female passenger from ₹ 20,000/- to ₹ 1,00,000/- and for male passenger from ₹ 10,000/- to ₹ 50,000/- (N. No. 25/2013 Customs-NT dated March 01, 2013).
- b. Under Baggage Rules, 1998 duty free allowance for crew member of vessel / aircraft has been increased from ₹ 600/- to ₹ 1,500/- (N. No. 25/2013 Customs-NT dated March 01, 2013).

Sector Specific Amendments brought up to be effective from March 1, 2013:-

a. Agriculture/Agro Processing/Plantation Sector:

- i. Basic customs duty on **dehulled oat grain** is being reduced from 30% to 15% (N. No. 12/2013 Customs dated March 01, 2013).
- ii. Basic customs duty on **hazel nuts** is being reduced from 30% to 10% (N. No. 12/2013 Customs dated March 01, 2013).
- iii. Export duty of 10% on **de-oiled rice bran oil cake** is being withdrawn (N. No. 15/2013 Customs dated March 01, 2013).

b. Automobiles:

i. Basic customs duty on new passenger cars and other motor vehicles (high end cars) with CIF value more than US\$ 40,000 and/or engine capacity exceeding 3000cc for petrol run vehicles and exceeding 2500 cc for diesel run vehicles is being increased from 75% to 100% (N. No. 12/2013 Customs dated March 01, 2013).



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 Basic customs duty on motor cycle with engine capacity of 800cc or more is being increased from 60% to 75% (N. No. 12/2013 Customs dated March 01, 2013).

c. Metals:

- **i.** Export duty is being levied on **ilmenite** unprocessed at 10% and on ilmenite, upgraded at 5% (N. No. 15/2013 Customs dated March 01, 2013).
- ii. Export duty is being levied on **bauxite** at 10% (N. No. 15/2013 Customs dated March 01, 2013).
- iii. Basic customs duty is being reduced from 10% to 5% on stainless steel wire cloth stripe and from 7.5% to 5% on wash coat for use in the manufacture of catalytic convertors and their parts (N. No. 12/2013 Customs dated March 01, 2013).

d. Precious Metals:

Basic customs duty is being reduced from 10% to 2% on **pre-forms of precious and semi-precious stones** (N. No. 12/2013 Customs dated March 01, 2013).

e. Capital Goods/Infrastructure:

- i. Both **Steam Coal and Bituminous coal** will attract Basic customs duty and Countervailing duty @ 2% each (N. No. 12/2013 Customs dated March 01, 2013).
- Basic customs duty is being reduced from 7.5% to 5% on 20 specified machinery for use in leather and footwear industry (N. No. 12/2013 Customs dated March 01, 2013).

f. Aircrafts & Ships:

- i. Time limit for consumption of **imported goods by ship repair units** is being extended from 3 months to 1 year (N. No. 12/2013 Customs dated March 01, 2013).
- **ii.** Time period for consumption/installation of **parts and testing equipments imported for maintenance, repair and overhaul (MRO) of aircrafts** by units engaged in such activities is being extended from 3 months to 1 year (N. No. 12/2013 Customs dated March 01, 2013).
- iii. Presently, the basic customs duty exemption is available to parts and testing equipments for maintenance, repair and overhaul of aircrafts. This exemption is now being extended to parts and testing equipments for maintenance, repair and overhaul of aircrafts and parts thereof (N. No. 12/2013 Customs dated March 01, 2013).

g. Environment Protection:

- **i.** Full exemption from basic customs duty is being provided to lithium ion automotive battery for manufacture of **lithium ion battery packs** for supply to the manufacturers of hybrid and electric vehicles (N. No. 12/2013 Customs dated March 01, 2013).
- **ii.** Time period of exemption (Nil BCD, CVD of 6% and Nil SAD) for the specified parts of **electric and hybrid vehicles** is being extended by 2 more years up to 31st March, 2015 (N. No. 12/2013 Customs dated March 01, 2013).

h. Textiles:

i. Basic customs duty on **raw silk** (not thrown), of all grades is being increased from 5% to 15% (N. No. 12/2013 Customs dated March 01, 2013).

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ii. Basic customs duty is being reduced from 7.5% to 5% on **textile machinery &** parts (N. No. 12/2013 Customs dated March 01, 2013).

i. Electronics/Hardware:

Basic customs duty on **Set Top Boxes for TV** is being increased from 5% to 10% (N. No. 12/2013 Customs dated March 01, 2013).

j. <u>Miscellaneous:</u>

- i. Full exemption from basic customs duty and additional customs duty is being provided to **trophy imported by National Sports Federation** recognized by the Department of Sports and Youth Affairs or any Sports Body registered under Societies Registration Act, in connection with any international tournament held in India (N. No. 14/2013 Customs dated March 01, 2013).
- Withdrawal of exemption from education cess and secondary & higher education cess on aircraft and aircraft parts, soyabean oil, olive oil etc (N. No. 09/2013 Customs dated March 01, 2013).

IV. <u>Service Tax</u>

A) Finance Act, 1994 (Service Tax)

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

- a. Educational services provided by "approved vocational educational course" are covered under the negative list of services on which service tax is not applicable. Definition of "approved vocational educational course" as under section 65B(11) is amended to include courses run by an industrial training institute or an industrial training centre affiliated to "State Council of Vocational Training" and exclude courses run by an institute affiliated to the National Skill Development Corporation.
- b. Definition of "process amounting to manufacture or production of goods" amended to make the processes on which duties of excise are leviable under the 'Medicinal and Toilet Preparation (Excise Duties) Act, 1955' amount to manufacture for the purposes of the said definition (Section 65B (40)).
- **c.** The benefit of Negative list (Section 66D) for services related to agriculture is extended to all kinds of 'testing' in relation to 'agriculture' or 'agriculture produce'. Earlier, the benefit was only available for 'seed testing'.
- **d.** Section 73 amended to harmonize it with the Central Excise law. Thus, whereby the notice is issued by the Central Excise Officer for excise duty not levied/ paid/ erroneously refunded etc. by reasons of fraud, collusion, etc. with intent to evade payment of duty is not found sustainable by an appellate authority or tribunal or court, the notice period will be deemed to be a notice issued for a period of 18 months.
- e. Section 77(1) (a) amended to provide maximum penalty imposable for failure to obtain registration to ₹ 10,000/-.
- f. Section 78A introduced to impose penalty which may extend to ₹1,00,000/- on director, manager, secretary or other officer in charge of the Company for specified offences in cases of willful actions.
- **g.** Section 86 amended empower appellate tribunal to admit an appeal or permit the filing of memorandum of cross objections after the expiry of the relevant period.

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- h. Section 89 amended to make the provision of the non- payment of duty within six months of the due date more stringent with imprisonment upto seven years where such amount to be paid exceeds ₹ 50 lakhs for first and subsequent conviction.
- i. Subsequent to above, Section 90 inserted to make the above default cognizable.
- **j.** New Section 91 introduced to provide for power to arrest. Commissioner of Central Excise is empowered to authorize any officer of Central Excise not below the rank of Superintendent of Central Excise, to arrest a person.
- **k.** Section 95 amended to empower the Central Government for removal of difficulty in respect of amendments carried out through the Finance Act, 2013.

2 Retrospective Exemption

- **a.** Explanation to Section 66B deleted and Section 66BA. The section provides that the references to section 66 (charging section under the positive list approach) will be construed as reference to section 66B (charging section under the negative list approach), with effect from July 01, 2012.
- **b.** "Indian Railways" have been exempted from service tax on various taxable services provided by them during the period prior to July 01, 2012 to the extent show cause notices have been issued upto the 28th February, 2013.

3 Service Tax Voluntary Compliance Encouragement Scheme, 2013 (VCES)

To encourage the filing of service tax return and to pay dues a new scheme is proposed with the following main features –

- **a.** Scheme applicable for dues pending from October 01, 2007 to December 31, 2012 and not paid till March 31, 2013.
- **b.** Scheme not applicable for defaulters against whom inquiry or investigation has been initiated, or persons who have made a truthful declaration in their return but have not deposited service tax dues.
- **c.** The defaulter will be required to make a truthful declaration of all the pending dues to the "designated authority" (i.e. an officer not below the rank of Assistant Commissioner) on or before the December 31, 2013 and the designated authority shall acknowledge the declaration.
- d. Not less than 50% of the declared service tax dues shall be paid on or before the 31st December, 2013, the remaining to be paid:
 - i. On or before the June 30, 2014 (without interest), or
 - ii. On or before the December 31, 2014 (with interest from July 01, 2014 onwards)
- **e.** Also, any service tax which becomes due or payable for the period after December 31, 2012 will need to be paid as usual under the present law.
- **f.** An immunity clause has also been provided to safeguard the person from penalty, interest or any other proceedings upon compliance with all the requirements of the scheme. However, there shall be no refund of the amount paid under the said scheme.
- **g.** However, if commissioner of central excise has reasons to believe that the declaration is false, may issue show cause notice to such 'declarant' within 1 year of such declaration.

Central Government is to notify the procedures and manner of the applicability of the scheme. The scheme will be operational from the date on which the Finance Bill, 2013 receives the assent of the President.

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4 Sector Specific Amendments brought up to be effective from March 1, 2013:-

- a. The abatement available for construction of complex, building or civil structure, or a part thereof, with a carpet area of more than 2000 sq. ft. or of a value of ₹ 1 crore or more, intended for sale to a buyer, wholly or partly except where the entire consideration is received after the issuance of completion certificate have been reduced from 75% to 70% i.e. taxable portion of 30% (N No. 02/2013 ST dated March 01, 2013).
- b. Mega Exemption List was notified with the Budget 2012 as amended in June 2012, is revisited vide Notification No. 3/2013 ST dated March 01, 2013. Following exemptions are being withdrawn:-

Exemptions not available:-

- i. Exemption by way of **auxiliary educational services and renting of immovable property** provided by an educational institution will not be available.
- **ii.** The scope of service tax has been extended all **restaurants with air-conditioning** or central air heating whether or not they serve liquor. Earlier the Service tax was applicable on AC restaurants serving liquor.
- **iii.** Exemption in case of **Specified Petroleum and petroleum products**, Postal mail or mail bags and Household effects transported by rail or a vessel from one place in India to another has been withdrawn.
- iv. Exemptions by way of vehicle parking service to general public have been withdrawn.
- v. Services provided to government, a local authority or governmental authorities by way of **repair or maintenance of aircraft** are being withdrawn, however for vessel the exemption will continue.
- vi. The monetary limit of ₹ 25,00,000 as provided in the definition of "charitable activities" is being deleted. Consequentially, now they will be covered by the threshold exemption upto ₹ 10,00,000/-.

Exemption modified:-

- i. Benefit of exemption in relation to **copyrights for cinematograph films** will now be available only to films exhibited in a cinema hall or a cinema theatre.
- **ii.** Services provided by a **Goods Transportation Agency** (GTA) are being amended to extend that the benefit of exemption to all agricultural produce, foodstuffs, chemical fertilizers, oilcakes, registered newspaper or magazines, relief material for specified purposes and defence or military equipments.
- **c.** The benefit of **Advance Ruling** is being extended to cover "the resident public limited companies" (N. No. 04/2013 ST dated March 01, 2013).