



# ANIL AGRAWAL AND COMPANY

Chartered Accountants

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**OVERVIEW OF FINANCE BILL 2015**

**Road map for Fiscal deficit** 2015-16 estimated at 3.90% of GDP  
2016-17 targeted at 3.50%  
2017-18 targeted at 3.00%.

**•GDP Growth** 2015-16 Projected at 8 to 8.5%

**•Direct Tax Revenue Loss** Rs. 8315 crore

**•Indirect Tax Yield** Rs. 23383 crore

**•Net Revenue Gain** Rs15068 crore

•CPI inflation projected at 5% by the end of the year.

•Monetary Policy Framework Agreement with RBI, to keep inflation below 6%.

**BUDGET ESTIMATES**

<b><u>Particulars</u></b>	<b><u>Amount (Rs in Crores)</u></b>
Non-Plan expenditure	13,12,200
Plan expenditure	4,65,277
Total Expenditure	17,77,477
Gross Tax receipts	14,49,490
Devolution to the States	5,23,958
Share of Central Govt.	9,19,842
Non Tax Revenues for 2016-17	2,21,733
FISCAL DEFICIT	3.9%
REVENUE DEFICIT	2.8%

## DIRECT TAX PROPOSALS

### Companies

It was announced in the Finance Minister's speech that it is proposed to reduce the tax rates from 30% to 25% over the next four years. The reduction of tax rate is to be accompanied by rationalization and removal of various kinds of tax exemptions and incentives for corporate taxpayers. These changes will be effective from financial year 2016-17.

For domestic companies surcharge is proposed to be increased from 5% to 7% on taxable income above Rs 1 crore but upto Rs10 crores and from 10% to 12% on taxable income above Rs10 crores. No change is proposed in surcharge for foreign companies.

The effective rate of tax for domestic and foreign companies is depicted in Table enclosed.

Income Slab (Rs)	Domestic Company		Foreign Company	
	Normal	MAT	Normal	MAT
Upto 1 Cr	30.90	19.05	41.20	19.05
Between 1 Cr to 10 Cr	33.06	20.39	42.02	19.44
More than 10 Cr	34.61	21.34	43.26	20.01

### Individuals/HUF

There is no change in the basic exemption limit and tax rates for individuals/HUF. It is proposed to increase the surcharge from 10% to 12% on taxable income above Rs 1 crore for individuals/HUF.

### Notes:

- For resident senior citizens (60 years but less than 80 years) and very senior citizens (80 years or more), the basic exemption limit remains unchanged at Rs 300,000 and Rs 500,000, respectively.
- **Additional surcharge of 2% on super rich's income in lieu of wealth tax abolishment.**

- Education cess will continue to be levied at the rate of 3% of Income Tax (including surcharge).
- The maximum marginal rate will be 34.608%, where taxable income is above Rs 1 crore.

### **Firms**

There is no change in the base tax rates applicable to firms. It is proposed to increase the rate of surcharge from 10% to 12% on taxable income above Rs1 crore. Hence, the effective tax rate under normal provisions and AMT will be 34.61% and 21.34%, respectively, where the income exceeds Rs1 crore.

### **Co-operative Societies**

There is no change in the base tax rates applicable to co-operative societies. It is proposed to increase the rate of surcharge from 10% to 12% on taxable income above Rs 1 crore.

### **Exemption for transport allowance**

Exemption for transport allowance is to be increased from Rs 800 per month to Rs 1,600 per month as per the Finance Minister's speech.

### **Deductions to encourage savings**

The overall limit of deductions available for specified savings referred to in section 80C, 80CCC and 80CCD (1) of the Act is Rs 150,000. Amendments have been made in some of these sections that allow flexibility of saving in these schemes:

#### **• *Deposit under Sukanya Samriddhi Account scheme***

Currently, investment in Sukanya Samriddhi Scheme is eligible for deduction subject to limits applicable under section 80C of the Act (Rs 150,000) in respect of subscription to such scheme made in the name of the individual taxpayer.

It is proposed that such subscription can be made even in the name of a girl child of the individual taxpayer or in the name of a girl child of whom taxpayer is the legal guardian. It is also proposed that any payment received from the account opened in accordance with the scheme will be exempt from tax. The proposed amendments will be retrospectively effective from financial year 2014-15.

### • *Deduction for contribution to certain pension fund*

Currently, deduction upto Rs 100,000 is allowed in respect of contributions made to specified pension funds. It is proposed to increase the limit of such deduction to Rs 150,000.

### *Deduction for contribution to pension scheme*

Currently, deduction is allowed for contribution to notified pension scheme of Central Government upto 10% of salary or 10% of the gross total income. This was limited to Rs 100,000, which is now proposed to be removed. It is now proposed that an additional Rs 50,000 savings be subject to deduction in addition to the overall limit of savings under section 80C, 80CCC and 80CCD (1). Thus, the overall savings under section 80CCD has now increased from Rs 150,000 to Rs 200,000.

### **Deduction for health insurance premium**

Currently, deduction upto Rs 15,000 is allowed for health insurance premium paid for self and family and an additional Rs 15,000 is allowed for health insurance premium for parents. It is proposed to increase the limit of such deduction to Rs 25,000 as per Finance Minister's speech. It is further proposed to increase the limit of such deduction for senior citizens from Rs 20,000 to Rs 30,000.

Additionally, it is proposed to provide a deduction of Rs 30,000 to an Individual for any payment made for medical expenditure in respect of very senior citizen for whom no health insurance premium is paid. The aggregate deduction available to any individual for health insurance premium and medical expenditure will be limited to Rs 30,000 for self/ family and Rs 30,000 for parents.

### **Deduction for dependent person with disability**

Currently, deduction is allowed to a resident individual of `50,000 for a dependent person with disability and `100,000 with severe disability. It is proposed to increase the limits to Rs 75,000 and Rs 125,000, respectively.

### **Deduction in respect of medical treatment**

Currently, deduction of Rs 40,000 is allowed to a resident individual for self or dependent and Rs 60,000 for senior citizen for specified medical treatment only when a certificate is obtained from a specialist in a Government hospital and is furnished with the return of income.

The above limits will remain the same and it is proposed to increase the limit to Rs 80,000 in case of medical treatment of a very senior citizen. It is further proposed to do away with the requirement of furnishing the certificate and a prescription in prescribed form for such treatment from a specialist is to be obtained.

### **Deduction in case of a person with disability**

Currently, deduction of ₹50,000 is allowed to a resident individual with disability and Rs 75,000 with severe disability. It is proposed to increase the limits to Rs 75,000 and Rs 125,000, respectively.

### **Collation of proof by the employer for providing deduction from salary income**

Currently, there is no uniformity regarding the documents to be obtained from the employee for allowing deductions, exemptions and set-off of losses while computing the tax to be deducted. It is proposed that the employer, prior to allowing deductions or exemptions, will obtain the proofs from the employee in a form and manner as may be prescribed. The proposed amendment will be effective from 1 June 2015.

### **TDS on pre mature withdrawal of employees Provident Fund**

Currently, the tax to be deducted on Provident Fund withdrawal is to be calculated by re-computing the tax liability of the years for which the contribution was made. It is difficult for the central trustees of EPFS to obtain past information. It is proposed that trustees of EPFS will deduct tax at the rate of 10% on the taxable withdrawal amount above ₹30,000. It is further proposed that if the person withdrawing the Provident Fund fails to furnish PAN to the trustees, tax will be deducted at the maximum marginal rate.

The proposed amendment will be effective from 1 June 2015.

## Corporate Taxation

### Deferment of General Anti Avoidance Rule (“GAAR”) provisions

In order to ensure that GAAR provisions are implemented as part of a comprehensive regime to deal with Base Erosion and Profit Shifting and aggressive tax avoidance, it is proposed that implementation of GAAR be deferred by two years. GAAR provisions to be made applicable from the assessment year 2018-19 and subsequent years.

The Finance Minister in his speech has indicated that the investments made up to 31 March 2017 will not be subject to GAAR.

### Additional investment deduction of 15% income development which will be cheered by the

It is proposed to insert a new section 32AD in the Act to provide for an additional investment allowance of an amount equal to 15% of the cost of new asset acquired and installed by an assessee, if:

- an undertaking or enterprise for manufacture or production of any article or thing is set up in any notified backward areas in **Andhra Pradesh and Telangana** during the period beginning from 1 April 2015 and ending on 31 March 2020. This deduction shall be available, under similar conditions prescribed, and over and above the existing 15% deduction available, under section 32AC of the Act (subject to fulfillment of specified conditions under both the sections).

### Additional conditions prescribed to be fulfilled by the approved in-house R&D facility

Section 35(2AB) provides for 200% weighted deduction in relation to expenditure incurred on approved in-house R&D facility, subject to conditions.

It is proposed that to avail the benefit, the company shall have to fulfill such conditions with regard to maintenance of accounts and audit thereof and furnishing of reports in such manner as may be prescribed.

### **Additional Depreciation at the rate of 35% for investment in Andhra Pradesh and Telangana**

Currently, an additional depreciation of 20% is allowed in respect of the cost of new plant or machinery (other than a ship and aircraft) acquired and installed by assesses engaged in manufacturing or power business.

It is now proposed to allow higher additional depreciation, subject to similar conditions, at the rate of 35% (instead of 20%) where an assessee acquires and installs new plant or machinery (other than a ship and aircraft) in a manufacturing undertaking or **enterprise set up in the notified backward area of the State of Andhra Pradesh or the State of Telangana on or after 1 April 2015 and ending before 1 April 2020.**

### **Allowance of balance 50% additional depreciation**

Currently, the additional depreciation of 20% of cost of new plant or machinery is restricted to 50% of the eligible amount when the new plant or machinery acquired and installed by the assessee, is put to use for less than 180 days in the previous year. The balance 50% depreciation is deferred for claiming under normal depreciation route.

It is now proposed to provide that the balance 50% of the additional depreciation on new plant or machinery acquired and used for less than 180 days which has not been allowed in the year of acquisition and installation of such plant or machinery, shall be allowed in the immediately succeeding previous year.

### **Share of profit of a member in AOP is to be excluded from MAT, corresponding expenditure, if any, to be disallowed.**

It is proposed that the share of income of a member of an AOP on which no income tax is payable, if credited to the profit and loss account, will be reduced from the book profit for MAT purposes. The corresponding expenditure, if any, debited to the profit and loss account is to be added back.

### **Formula for computing ‘amount of tax sought to be evaded’ introduced for levy of penalty**

Currently, “amount of tax sought to be evaded” has been defined, inter-alia, as the difference between the tax due on the income assessed and the tax which



would have been chargeable had such assessed income been reduced by the amount of concealed income.

It is proposed that the 'amount of tax sought to be evaded' be determined in accordance with the following formulae:

$$(A - B) + (C - D)$$

Where:

A= amount of tax on total assessed income under normal provisions

B= amount of tax on (total assessed income less concealed income)

C= amount of tax on total assessed income under Section 115JB or 115JC of the Act

D= amount of tax on (total assessed income under Section 115JB or 115JC of the Act

less concealed income)

It is proposed that the amount of tax sought to be evaded shall be the summation of tax sought to be evaded under the general provisions and the tax sought to be evaded under the provisions of section 115JB or 115JC of the Act. However, amount considered to be concealed under both, the general provisions as well as under provisions of section 115JB or 115JC, shall be ignored for the purpose of D above.

If section 115JB or 115JC is not applicable, the computation of item (C-D) in the above formula will be ignored. It is further proposed that:

Where due to additions made in assessment, loss is reduced or converted in profit, the formulae (A - B) shall be the tax on the amount of such additions.

### **Non-resident taxation**

#### **POEM introduced as test of residence for foreign companies**

It is proposed to amend the test of residence for foreign companies to provide that a company would be treated as resident in India if its place of effective management is in India at any time in that year.

“Place of effective management” has been defined to mean a place where key management and commercial decisions that are necessary for the conduct of the

business of an entity as a whole are, in substance made. A set of guiding principles to determine POEM is also proposed to be issued.

### **Clarifications on indirect transfer provisions**

Currently, share or interest in a company or an entity outside India is deemed to be situated in India if such share or interest derives its value substantially, either directly or indirectly, from assets located in India. Capital gains arising from transfer of such share or interest ('indirect transfer') is liable to tax in India.

It is now proposed to provide clarifications on certain terms referred in said provisions. It is proposed that the share or interest of a foreign company or entity shall be deemed to derive its value substantially from the assets (tangible or intangible) located in India, if on the specified date, the value of Indian assets:

- (a) Exceeds Rs 10 crores; and
- (b) Represents at least 50% of the value of all the assets owned by the foreign entity.

It is proposed that only such part of the income arising from indirect transfers as is reasonably attributable to assets located in India will be deemed to accrue or arise in India and will be determined in such manner as may be prescribed.

It is also proposed to grant exemption from taxation of capital gains arising from indirect transfers in the following scenarios:

- Foreign entity that is transferred directly owns Indian assets - Where the transferor of shares or interest in the foreign entity (along with associated enterprises) does not have the right of control and management over the foreign entity and does not hold more than 5% voting power / share capital / interest in such foreign entity.
- Foreign entity that is transferred indirectly owns Indian assets through another company - Where the transferor of shares or interest in the foreign entity (along with associated enterprises) does not have the right of control and management over the foreign entity and other company and does not hold more than 5% voting power / share capital / interest / in the foreign entity / other company.
- Transfer of shares or interest in a foreign company under a scheme of amalgamation or demerger, subject to conditions.

The law proposes reporting obligation on the Indian entity as may be prescribed. It is proposed to levy penalty on the Indian concern through or in which the Indian assets are held by the foreign company, who fails to furnish information or document as required for the purpose of determination of income arising under section 9(1)(i). The penalty will be equal to 2% of the value of transaction, if such transaction had the effect of direct or indirect transfer of management or control in relation to the Indian concern, and in any other case, the penalty will be Rs 500,000.

In the Budget speech, the Finance Minister has also clarified that applicability of indirect transfer provisions to dividends paid by foreign companies will be addressed through a clarificatory Circular.

### **Source rules for interest received by a non-resident**

There is no specific provision in the Income Tax Act dealing with interest payments from an Indian branch to foreign head office or foreign branches, especially in case of banks.

It is proposed to provide that in case of a non-resident engaged in business of banking, any interest payable by the PE in India to its head office, other branches or any other part of the non-resident outside India shall be deemed to accrue and arise in India. Consequently, such interest income will be taxable in India in the hands of the head office in addition to any other income attributable to the PE in India.

It is further proposed that the PE in India and the non-resident will be deemed to be separate persons. Therefore, provisions relating to computation of total income, determination of tax and withholding tax will apply accordingly.

### **Rate of tax on royalty and FTS**

Currently, income in the nature of royalty and FTS earned by non-residents from Government or Indian concern, which is not effectively connected with PE, is taxable at the rate of 25%. It is proposed to reduce the tax rate on such royalty and FTS from 25% to 10%.

### **MAT provisions relating to FIIs**

It is proposed to amend the provisions of MAT to provide that income from transactions in securities (other than short-term capital gains arising on transactions on which securities transaction tax is not chargeable) arising to a

FII, shall be excluded from the chargeability of MAT and the profit corresponding to such income shall be reduced from the book profit.

### **Interest on rupee denominated bonds and Government securities**

Beneficial tax rate of 5% on interest payable to FIIs and QFIs in respect of investments in rupee denominated bonds of an Indian company or Government securities proposed to be extended till 30 June 2017.

The proposed amendment is applicable from 1 June 2015.

### **Fund managers in India not to constitute business connection of off-shore funds**

In order to facilitate location of fund managers of off-shore funds in India, a special regime has been proposed to ensure that the fund management activity of an 'eligible investment fund' carried out by an 'eligible fund manager' will not constitute business connection in India of the said fund.

Moreover, an eligible investment fund will not be said to be resident in India merely because the eligible fund manager is situated in India. An offshore fund will qualify as 'eligible investment fund' for this purpose if it fulfils certain criteria, viz.:

- a) The fund qualifies as non-resident in India, is resident of a country with which India has entered into a tax treaty, and is subject to applicable investor protection regulations in such country.
- b) The direct or indirect participation or investment by India tax-residents in the fund should not in aggregate exceed 5% of its corpus.
- c) The fund must have at least 25 members not connected to each other, with no individual member having participation interest exceeding 10%; and the aggregate participation interest (direct or indirect) in the fund of any ten or less members (along with their connected persons) shall be less than 50%.
- d) The fund must not invest more than 20% of its corpus in any entity, should not make any investment in its associate entity, and should not carry on or control and manage (directly or indirectly) any business in India or from India in a way that will constitute

business connection in India (other than the activities undertaken by the eligible fund manager on its behalf)

- e) The monthly average of the corpus of the fund shall not be less than one hundred crore rupees and if the fund has been established or incorporated in the previous year, the corpus of fund shall not be less than one hundred crore rupees at the end of such previous year; and
- f) The eligible fund manager is remunerated at arm's length price.

A person will qualify as 'eligible fund manager' if:

- a) the person is not an employee of the eligible investment fund or a connected person of the fund;
- b) the person is registered as a fund manager or investment advisor in accordance with the specified regulations;
- c) the person is acting in the ordinary course of his business as a fund manager;
- d) the person along with his connected persons shall not be entitled, directly or indirectly, to more than 20% of the profits accruing or arising to the eligible investment fund from the transactions carried out by the fund through such a fund manager.

These provisions will not have any impact on taxability of any income of the eligible investment fund which would have been chargeable to tax irrespective of whether the activity of the eligible fund manager constituted the business connection in India of such fund or not.

These provisions will not have any effect on the scope of total income or determination of total income in case of the eligible fund manager.

### **Income from ADRs / GDRs**

Currently, a concessional tax treatment has been prescribed in relation to income from ADRs / GDRs.

As per the new Depository Receipts Scheme, 2014, ADRs / GDRs can be issued against the securities of listed or unlisted companies. Further, both sponsored

and unsponsored issues are permitted. ADRs / GDRs can be freely held and transferred by both residents and non-residents.

It is proposed to provide that the concessional tax treatment will be available only in respect of ADRs / GDRs of companies listed on a recognized stock exchange in India.

### **Furnishing of information relating to foreign remittance**

Currently, a person responsible for paying to a non-resident any sum chargeable to tax is required to furnish information as prescribed. It is now proposed to extend the requirement to provide the information in respect of payments to non-residents, whether the sum payable is chargeable to tax or not.

Further, it is also proposed to levy a penalty of Rs100,000 for failure to furnish information or furnishing of inaccurate information, if there is no reasonable cause for the failure.

The proposed amended is effective from 1 June 2015.

### **Rules for determining eligible foreign tax credit**

Currently, the Act does not provide the manner for granting credit of taxes paid in any country outside India. It is proposed to amend provisions of the Act to enable CBDT to make rules in this regard.

The proposed amendment is effective from 1 June 2015.

### **Amendments in tax regime of AIFs & REITs**

#### **Pass-through status for Alternative Investment Funds**

Currently the Act provides for the manner of taxation of income received from a Venture Capital Fund (VCF) (as a sub category of Category 1 Alternative Investment Fund (AIF) under SEBI (AIF) Regulations 2012 (AIF Regulations) and Venture Capital Fund (VCF) registered under erstwhile SEBI (VCF) Regulations 1996 (VCF Regulations).

It is proposed to clarify that the existing manner of taxation shall apply only to existing VCF registered under erstwhile VCF Regulations and shall not include Category I AIF and Category II AIF registered under AIF Regulations, which are separately dealt with by insertion of a new regime discussed below.

## ANALYSIS - India Budget 2015

- 1) A new section is proposed to exempt any income of an “Investment Fund”, other than the income chargeable under the head “Profit and gains of business or profession”. Correspondingly, the income accrued or received by a unit holder is proposed to be exempt from tax.
- 2) “Investment fund” means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II AIF and is regulated under AIF Regulations.
- 3) By virtue of the proposed amendment, the pass-through status is extended to:
  - i. all the Category I AIFs (i.e. AIFs which invest in angle fund, start-up or early stage ventures or social ventures or SMEs or infrastructure); and
  - ii. Category II AIFs (i.e. private equity funds or debt funds) which neither undertake leverage or borrowing (except for operational purposes) nor employs diverse or complex trading strategies.
  - iii. Salient features of the revised tax regime for the Investment Fund are as under:
    - a) Income from investments paid/ credited by fund will be deemed to be of same nature and proportion in the hands of Unit Holder as such income is received by/or accrued to Investment Fund.
    - b) Income from profits and gains of business will be taxable in the hands of such Investment Fund. All other income shall be exempt in the hands of the Investment Fund.

Income received by the Investment Fund from portfolio companies will not be subject to withholding tax – to be effected by way of a subsequent notification:

- 4) Income (other than business income) accrued or paid by the Investment Fund to a Unit Holder shall be subject to withholding tax of 10%
  - i. In a year when Investment Fund incurs losses, no loss will be allowed to be passed through to the Unit Holders and would be carried over to the next year by such Investment Fund.

- ii. DDT and buyback tax not applicable on payment of income by the Investment Fund to the Unit Holders.
- 5) Income of a Unit Holder of an Investment Fund will be chargeable to tax as if the investments were made directly by him. Business income (taxed at the Investment Fund level) will not be subject to tax in the hands of Unit Holders.
- 6) Investment Fund is required to file return of income or loss for every previous year.

### **Transfer Pricing**

#### **Raising the threshold for specified domestic transaction**

The existing provisions of section 92BA of the Act define “specified domestic transaction” in case of an assessee to mean any of the specified transactions, not being an international transaction, where the aggregate of such transactions entered into by the assessee in the previous year exceeds a sum of Rs 5 crore.

In order to address the issue of compliance cost in case of small businesses on account of low threshold of Rs 5 crore, it is proposed to amend section 92BA to provide that the aggregate of specified transactions entered into by the assessee in the previous year should exceed a sum of Rs 20 crore for such transaction to be treated as “specified domestic transaction”.

This amendment will take effect from 1 April 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

### **Other Amendments**

#### **Measures to curb black money**

In order to strengthen the measures to curb the generation and concealment of black money from assets outside India as well as from transactions in India, it is proposed to enact comprehensive new laws on black money.

#### ***Introduction of a new Bill***

A new law is proposed to be introduced in order to curb the black money in relation to foreign assets. The following are the key features of the proposed new law, as announced by the Finance Minister:



- 1) Offense of concealment of income and assets and evasion of tax in relation to foreign assets:
  - a) Liable for prosecution with punishment of rigorous imprisonment up to 10 years.
  - b) Offense will be non-compoundable
  - c) Offence will not be eligible for an application before the settlement Commission.
  - d) Levy of penalty at 300% of the tax liability
  - e) Confiscation of unaccounted assets held abroad.
  - f) Attachment and confiscation of equivalent asset in India where the asset Located abroad cannot be forfeited.
- 2) Non-filing of return or filing of return with inadequate disclosure of foreign assets
  - Liable for prosecution with punishment up to rigorous imprisonment 7 years
- 3) Income from undisclosed foreign assets or undisclosed income from any foreign assets
  - a) Taxable at maximum marginal rate
  - b) No deduction or exemption available therefrom
- 4) Beneficial owner or beneficiaries of foreign assets will be mandatorily required to file return even if there is no taxable income
- 5) Abettors will also be liable for prosecution and penalty.

***Amendment to the provision of FEMA***

Amendment to the provisions of FEMA for contraventions in relation to foreign assets, resulting into:

- a) Seizure and eventual confiscation of assets of equivalent value situated in India
- b) Levy of penalty and imprisonment up to 5 years

### ***Comprehensive law for Benami Transactions***

A more comprehensive Benami Transactions (Prohibition) Bill for black money from domestic transactions will be introduced.

### ***Other proposals***

- a) Prohibition to accept or pay an advance of Rs 20,000 or more in cash for purchase of immovable property.
- b) Quoting of PAN will be mandatory for any purchase or sale exceeding the value of Rs 100,000
- c) Third party reporting entities will be required to furnish information about foreign currency sales and cross border transactions.

### **Transfer of units in a consolidating scheme of mutual funds**

It is proposed that the transfer of units held by an assessee in a consolidating scheme of mutual funds will be considered as an exempt transfer provided the consolidation is of two or more schemes of an equity oriented fund or two or more schemes of a fund other than an equity oriented fund.

It is also proposed that the period for which the units were held in the earlier scheme will be included for the purpose of calculating the holding period of units in the consolidating scheme. Further, it is proposed that the cost of acquisition of the units transferred will be the cost of acquisition in a consolidating scheme.

### **Cost of acquisition of a capital asset in the hands of resulting company**

The existing provisions of the Income Tax Act do not have express provisions to determine the cost of acquisition of assets in the course of a demerger. It has been proposed that the cost of the asset in the hands of the resulting company should be cost of such asset in the hands of the demerged company as increased by the cost of improvement, if any, incurred by the demerged company. This amendment will not be applicable to depreciable assets.

### **Scope of charitable purpose broadened**

The definition of the term charitable purpose is proposed to be broadened to include “yoga” as a separate category on the lines of education and medical relief.

It is proposed to provide that carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration will not be considered as a charitable purpose unless it is undertaken for such advancement of any other object of general public utility and the aggregate receipts from such activity during the previous year, do not exceed 20% of the total receipts.

### **Relaxation relating to accumulation of income by charitable trusts and Institutions**

It is proposed that in order to avail the benefit of accumulation under section 11, the prescribed form will be required to be furnished on or before the due date for filing the return of income. Further, it is proposed that benefits of section 11 will not be applicable if the return of income is not filed on or before the due date of filing the return of income.

### **Exemption of specified income of Core Settlement Guarantee Fund**

It is proposed that specified income of the Core Settlement Guarantee Fund by way of contribution received from specified persons, investment made by the Fund and penalties imposed by the Clearing Corporation will be exempt from tax. However, any amount standing to the credit of the Fund and not charged earlier to tax, will be taxed in the year in which such amount is shared with the specified person.

### **Deduction for employment of new workmen**

Presently, a deduction equal to 30% of additional wages paid to new regular workmen, in excess of 100 workmen, employed in a factory manufacturing goods is available only to an Indian company. No deduction is allowed if the factory is hived off or transferred from another existing entity or acquired by way of amalgamation. It is now proposed to extend this benefit to all assesses having a factory employing new regular workmen in excess of 50 workmen. It is further proposed that no deduction will be allowed if the factory is acquired by way of transfer from any other person or as a result of any business re-organization.

### **100% deduction in specific cases**

It is proposed that contributions made to Swachh Bharat Kosh and Clean Ganga Fund (other than sums spent by companies in pursuance to CSR) and National

Fund for Control of Drug Abuse will be eligible for 100% deduction without the overall 10% cap.

### **Interest for shortfall in payment of advance tax**

Currently, in case of reassessment under section 147 or assessment in case of search or requisition under section 153A, the interest under section 234B for shortfall in payment of advance tax is charged from the date of intimation under section 143(1) or the date of the regular assessment till the date of reassessment under section 147 or section 153A. Here, the interest on additional tax is not charged for the period from the first day of assessment year to the date of intimation or regular assessment.

Also, in case an application is filed before the Settlement Commission declaring an additional amount of income-tax, there is no provision in section 234B for charging interest on the additional amount of Income Tax declared in such application from the first day of assessment year to the date of such declaration. It is proposed that interest will be charged on the additional tax determined in course of reassessment from the first day of the relevant assessment year till the date of reassessment under section 147 or assessment under section 153A. As regards the application before the Settlement Commission, it is proposed that interest will be levied on the additional amount of Income Tax declared from the first day of the assessment year to the date of making an application to the Settlement Commission. If the amount of total income disclosed in the application is increased by an order of the Settlement Commission, then interest will be payable from the first day of the assessment year to the date of such order of the Settlement Commission.

This amendment will be effective from 1 June 2015.

### **TDS on interest (other than interest on securities)**

Currently, some co-operative banks do not deduct TDS on payment of interest to depositors, in respect of interest on time deposits, claiming the benefit of general exemptions which are applicable on payments made by co-operative societies to its members. It is proposed to expressly provide that the general exemption as mentioned above will not be available in respect of payment of interest on time deposits by co-operative banks to its members.

TDS provisions are proposed to apply in respect of interest on 'recurring Deposits'.

Currently, the computation of interest threshold limit of Rs 10,000 for deduction of TDS by a banking company or co-operative bank or a public company is made branch-wise. It is proposed that such computation will now be made by aforesaid entities (and not branch-wise) which has adopted core banking solutions.

The existing provisions provide for deduction of TDS from interest paid or credited exceeding Rs 50,000 on compensation received from Motor Accident Claim Tribunal, whichever is earlier.

It is proposed that TDS shall be made at the time of payment of such interest in a financial year exceeding Rs 50,000.

This amendment is effective from 1 June 2015.

### **TDS on payments made to transporters**

Currently, tax is not required to be deducted on payments made to contractors of plying, hiring and leasing of goods carriage if the contractors furnish their PAN.

It is proposed to be clarified that the said TDS exemption is only available to transporters which own ten or less goods carriages at any time during the previous year and furnish declaration to this effect along with PAN to the payer.

This amendment is effective from 1 June 2015.

### **No TDS to be made in certain cases**

It is proposed that no tax will be deducted on payment of accumulated balance in a recognized provident fund or any sum under life insurance policy to an individual if the individual furnishes to the payer a declaration in writing in the prescribed form (Form 15G/15H) stating that the tax on his/ her estimated total income will be NIL.

This amendment is effective from 1 June 2015.

### **Fee for late filing of TDS statement**

It is proposed to provide that statement of TDS will be processed after taking into account the fee under section 234E, if any, payable for late filing of TDS statement.

This amendment is effective from 1 June 2015.

**Relaxation in the requirement of obtaining TAN for certain deductors**

To reduce the compliance burden of obtaining TAN for certain types of deductors, it is proposed that the requirement of obtaining and quoting of TAN shall not apply to the deductors or collectors as may be notified by the Central Government.

This amendment is effective from 1 June 2015.

**Appeal against order denying approval to certain exempted institutions**

Currently, order of the Chief Commissioner or Director General refusing to grant approval to any university or other educational institution or any hospital or other institution which enables them to claim exemption from Income Tax under section 10(23C)(vi) and section 10(23C)(via) are not appealable before the appellate authorities.

It is proposed that an appeal can be filed before the Tax Tribunal against the said order denying approval to such institutions.

This amendment will be effective from 1 June 2015.

**Income limit for disposal of cases by single member bench of the Tax Tribunal**

Currently, a single member bench may dispose of any case which pertains to the tax payer whose assessed income does not exceed Rs 500,000. It is proposed to increase the threshold limit of assessed income to Rs 1,500,000.

This amendment will be applicable from 1 June 2015.

**Revision of assessments**

Currently, if the Commissioner considers that any order passed by the Assessing Officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may pass an order modifying or cancelling the assessment and directing fresh assessment.

In order to provide clarity, it is proposed that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the

interests of the revenue, if in the opinion of the Commissioner, the order is passed:

- a) without making inquiries or verification,
- b) allowing any relief without inquiring into the claim,
- c) not in accordance with any order, direction or instruction issued by Central Board of Direct Taxes,
- d) not in accordance with any decision rendered by the jurisdictional High Court or Supreme Court.

This amendment will be applicable from 1 June 2015

### **Mode of acceptance or repayment of any sum of money in relation to the transfer of an immovable property**

Currently, no person is allowed to accept or repay any loans or deposits otherwise than by an account payee cheque or bank draft or electronic clearing system through a bank account, if the amount of such loan or deposit or aggregate of such loan or deposit is Rs 20,000 or more. Failure to comply with these provisions is liable for penalty equal to amount of loan or deposit accepted or repaid.

In order to curb generation of black money by way of dealings in cash in immovable property transactions, it is proposed to extend the above provision to include any sum of money accepted or repaid whether advance or otherwise, in relation to the transfer of an immovable property, whether or not the transfer takes place.

This amendment will be applicable from 1 June 2015.

### **Accountant who is not independent is not eligible to provide audit or certification services**

Currently, section 288 defines the accountant, who can furnish audit reports and issue certificates for ensuring correct reporting and computation of taxable income by the tax payers.

In order to ensure the independence of the accountant, it is proposed to exclude certain related specified persons, except for purposes of representing the tax payer, from the definition of accountant. In the case of a company this includes

a person who is not eligible for appointment as an auditor in accordance with section 141(3) of the Companies Act, 2013.

This amendment will be applicable from 1 June 2015.

### **Procedure for appeal by tax authorities when an identical question of law is pending before the Supreme Court**

Currently, the assessee has an option to submit a claim before the Assessing Officer or appellate authorities to keep the proceedings in abeyance and apply the decision of the High Court/Supreme Court when such order is issued in the assessee's own case for previous years. There are no corresponding provisions for tax authorities to not file an appeal for subsequent years where the department is in appeal on the same question of law for an earlier year.

It is proposed that the tax authorities can file an application with the Tribunal (with acceptance from the tax payer) in prescribed form stating that the appeal may be filed when the decision on the identical question of law pending before the Supreme Court becomes final. Further, where the order of the Commissioner of Income Tax (Appeals) is not in conformity with the final order of the Supreme Court (Supreme Court decides in favour of the Department), the tax authorities can file an appeal before the Tribunal within 60 days from the date of communication of the order to the tax authorities. If the acceptance is not received from the tax payer, the tax authorities can file the appeal before the Tribunal in the normal course of an appeal.

This amendment is effective from 1 June 2015.



**INDIRECT TAXES**

**Customs Duty**

**Import Duty**

***Rate Changes***

- a) Peak rate of Basic Customs Duty (BCD) maintained at 10%
- b) Education cess and secondary and higher education cess continues to be levied on Customs duty.

***Change in effective rate of duty***

The following changes shall be effective from 1 March 2015.

- 1) BCD on following goods retained at 10%
  - a) Iron and steel and articles of iron and steel
  - b) Motor vehicles for transport of 10 or more persons imported in a CKD Condition
  - c) Motor vehicles for transport of goods imported in CKD condition
  - d) Electrically operated vehicle (including in CKD condition) for transport of 10 or more persons.
- 2) The following goods have been exempted from BCD
  - a) Evacuated tubes with three layers of solar selective coating for use in the manufacture of solar water heater and system subject to actual user condition
  - b) Ulexite Ore
  - c) Parts, components or accessories including their sub-parts for use in the manufacture of tablet computer with actual user condition
  - d) Specified digital still image video camera including parts and components thereof

- e) Panels of LCD, LED and OLED TV
  - f) Black Light Unit Module used in manufacture of LCD and LED TV panels, subject to actual user condition
  - g) Magnetron used in manufacture of domestic microwave oven
  - h) Artificial heart
  - i) Specified inputs used in manufacture of pacemakers subject to actual user condition
  - j) HDPE for use in the manufacture of telecom grade optical fibre cable
- 3) The following goods have been exempted from Additional Duty (Countervailing Duty -CVD)
- a) Parts, components or accessories including their sub-parts for use in the manufacture of tablet computer
  - b) Artificial heart
  - c) Specified inputs used in manufacture of pacemakers subject to actual user Condition
- 4) Increase in Additional Duty of Customs (Road Cess) on following goods:
- a) Motor Spirit Rs 2 per litre Rs 6 per litre
  - b) High Speed Diesel Oil Rs 2 per litre Rs 6 per litre
- 5) The following goods have been exempted from Special Additional Duty (SAD):
- a) All goods (except populated Printed Circuit Boards) used in the manufacture.
  - b) of ITA bound goods subject to actual user condition
  - c) All goods used in the manufacture of pacemaker

- d) All inputs used in manufacture of LED driver, MSPCB for LED lights and
- e) fixtures or LED lamps subject to actual user condition
- 6) Rate of SAD reduced from 4% to 2% in respect of following goods:
  - a) Naphtha, styrene, ethylene dichloride, vinyl chloride monomer for manufacture of excisable goods subject to specified conditions
  - b) Melting scrap of iron and steel
  - c) Stainless steel scrap, for the purpose of melting
  - d) Scrap of copper, brass and aluminium

***Miscellaneous Changes***

- a) Concessional Customs duty on specified goods for use in manufacture of electrically operated vehicles and hybrid motor vehicles extended upto 31 March 2016 (effective from 1 March 2015)
- b) Certificate for claiming full exemption from BCD and CVD on life saving drugs and medicines at the time of import by an individual for personal use shall be valid for a period of one year in case of patients
- c) The period for which the importer has to furnish a bank guarantee or fixed deposit receipt to avail benefit of Nil BCD and CVD on specified Mega Power Projects having provisional certificate of Mega Power Project status has been increased from 36 months to 66 months

**Export Duty (effective from 1 March 2015)**

- Export duty on specified ilmenite reduced from 5% to 2.5%

**Changes in Customs Act, 1962**

The following changes will be effective from the date of enactment of the Finance Bill, 2015.

- a) In cases not involving fraud or collusion or willful misstatement or suppression of facts or contravention of any provisions of the Act or

Rules with the intent to evade payment of duty, penalty will not be levied and proceedings will be deemed to be concluded if the amount of duty along with interest thereon is paid within thirty days from the date of receipt of notice.

- b) Mandatory penalty in cases involving fraud or collusion or willful misstatement or suppression of facts or contravention of any provisions of the Act or Rules with the intent to evade payment of duty, reduced from 25% to 15% if the duty along with interest is paid within thirty days from the receipt of the notice
- c) In cases where notice for recovery of duties and interest is served and the order determining duty has not been passed before the date of enactment of the Finance Bill, 2015, proceedings will be deemed to be concluded if the amount of duty along with interest and penalty is paid within thirty days from date of enactment of the Bill.
- d) Penalty in respect of improper importation or exportation of goods liable for confiscation will be as under:
  - 10% of duty involved or Rs 5,000, whichever is higher
  - Penalty to be restricted to 25% of such penalty so determined, if the duty along with interest is paid within thirty days of communication of order.
- e) Provisions relating to Settlement Commission not applicable to any proceeding referred back to adjudicating authority by any court, Appellate Tribunal or any other authority for fresh adjudication.

The following change will be effective from 1 March 2015.

### **Changes in Customs Tariff Act, 1975**

- Tariff rate of BCD on bituminous coal revised from 55% to 10% with effect from 1 March 2015

### **Miscellaneous Changes**

Offence of making false declaration/ documents under Customs will be treated as a scheduled offence under the Prevention of Money Laundering Act, 2002. This change will be effective from the date of enactment of the Finance Bill, 2015.

### Central Excise Duty

Following changes will be effective from 1 March 2015.

#### Rate

- a) Standard ad valorem rate of Central Excise Duty on excisable goods increased from 12% to 12.5% and Education Cess and Secondary and Higher Education Cess are subsumed in the said rate.
- b) Specific rates of Basic Excise Duty on petrol, diesel, cement, cigarettes and other tobacco products (other than biris) have been suitably amended.
- c) Rate of excise duty on goods covered under Medicinal and Toilet Preparations Act, 1955 has been increased from 12% to 12.5% ad valorem.

#### Full exemption

Following goods have been fully exempted from payment of Central Excise Duty (subject to conditions):

- a) Round copper wire and tin alloys for use in manufacture of solar PV ribbons for manufacture of solar photovoltaic cells and modules.
- b) Specified inputs used in manufacture of pacemakers.
- c) Parts, components and accessories to be used in manufacture of tablet computers and sub-parts for use in manufacture of parts, components and accessories of tablet computers.
- d) Parts for use in manufacture of solar water heater and system.
- e) Pig iron SG grade and Ferro-silicon-magnesium for manufacture of cast components of wind operated electricity generators.
- f) Goods consumed within the factory of their production in the manufacture of Agarbatti.

**Retail Sale Price (RSP) based assessment**

- 1) Mechanism for valuation of following products has been shifted from transaction value based to RSP based:
  - a) Condensed milk put up in unit containers with abatement @ 30%
  - b) All goods covered under Central Excise Tariff Heading 210120 such as extracts, essences or concentrates of tea or mate and preparations with a basis of these goods including iced tea with an abatement @ 30%
  - c) Waters containing added sugar or other sweetening matter of flavored and
  - d) other non-alcoholic beverages except mineral water and aerated drinks with an abatement @ 35%
  - e) LED lights or fixtures including LED lamps with abatement @ 35%.
- 2) Percentage abatement prescribed for RSP based valuation of all footwear falling under Chapter 64 of Central Excise Tariff has been changed from 35% to 25%.

**Other Changes**

- a) Additional duty of excise levied on waters, including aerated waters, containing added sugar abolished.
- b) Excise duty on mobile handsets including cellular phone has been changed from 1% without CENVAT credit or 6% with CENVAT credit to 1% without CENVAT credit or 12.5% with CENVAT credit.
- c) Option of concessional Excise Duty of 2% without CENVAT credit and 12.5% with CENVAT credit prescribed for tablet computers.
- d) Option of 'Nil' excise duty without CENVAT credit and 12.5% with CENVAT credit provided for solar water heater and system.
- e) Notification No. 12/2012 – Central Excise dated 17 March 2012 has been retrospectively amended to grant exemption from excise duty to railway or tramway construction material of iron and steel during period 17 March 2012 to 2 February 2014, subject to conditions.
- f) Concessional excise duty of 6% granted to specified goods used in

manufacturing electrically operated vehicles and hybrid vehicles has been extended upto 31 March 2016.

- g) Maximum speed of packing machine for packages of notified goods of various retail sale prices is being specified as a factor relevant to production for determining excise duty payable under the Compounded Levy Scheme, as presently applicable to pan masala, gutkha and chewing tobacco.
- h) The conditions to be complied under customs legislation for claiming an exemption on import of the goods are required to be adhered for claiming an exemption from excise duty in respect of the same goods supplied under the contract awarded under international competitive basis
- i) Period of bank guarantee or fixed deposit receipt to be furnished in order to claim exemption for goods supplied to a project, for which Ultra Mega Power project status is provisional, has been increased from '36 months or more' to 42 months.
- j) Period of bank guarantee or fixed deposit receipt to be furnished in order to claim exemption for goods supplied to a project, for which Mega Power project status is provisional, has been increased from '36 months or more' to 66 months.

### **Clean Energy Cess**

- a) Effective rate of Clean Energy Cess levied on coal, lignite and peat has been increased from Rs 100 to Rs 200 per tonne.
- b) Education Cess and Secondary and Higher Education Cess levied on Clean Energy Cess are exempted.

### **Changes in the Central Excise Act, 1944**

Following changes are proposed in the Central Excise Act, 1944 and will be effective from the date of enactment of the Finance Bill, 2015.

- 1) Provision relating to recovery of duties:
  - a) Special treatment of cases where there is existence of fraud, collusion, etc. but the transactions are recorded in the specified records has been dispensed with;

- b) Relevant date for invoking extended period of limitation where return has been filed would be the date when the return has been filed and not the due date of filing return;
  - c) Relevant date for invoking extended period of limitation where only interest is recoverable, has been prescribed to be date of payment of duty to which such interest relates;
  - d) The provision related to recovery of duty is proposed to be made inapplicable where duty amount in dispute is shown as payable in the periodic returns filed by the assessee. The manner in which recovery of disputed duty would be made in such cases will be prescribed.
- 2) Penalty provisions pertaining to cases not involving fraud, collusion, etc introduced as under:
- a) Penalty not exceeding 10% of the duty determined or Rs 5,000 whichever is higher would be payable;
  - b) Penalty would not be payable where duty and interest are paid before issuance of show cause notice or within 30 days of issuance of show cause notice;
  - c) Reduced penalty at 25% of penalty imposed, provided demanded duty, interest and reduced penalty are paid within 30 days of communication of order;
  - d) If on appeal, duty amount gets increased, benefit of reduced penalty (25% of penalty imposed) would be available provided duty, interest and reduced penalties are paid within 30 days of communication of appellate order;
  - e) Proceedings in pending show cause notices can be closed on payment of duty and interest within 30 days of the Finance Bill 2015 receiving the assent of the President;
  - f) Proceedings in pending show cause notices which are adjudicated after the Finance Bill 2015 receives the assent of the President can be closed on payment of duty, interest and 25% of the penalty imposed within 30 days of communication of adjudication order.
- 3) Penalty provisions pertaining to cases involving fraud, collusion, etc. proposed to be amended as under:



- a) Penalty equal to duty determined would be imposed;
- b) Reduced penalty @ 15% of the duty demanded, provided that the duty, interest and penalty are paid within 30 days of communication of notice;
- c) Reduced penalty @ 25% of the duty determined, provided duty, interest and reduced penalty are paid within 30 days of communication of order;
- d) If on appeal, duty amount gets increased, then benefit of reduced penalty (25% of duty determined) available provided duty, interest and reduced penalties are paid within 30 days of communication of appellate order;
- e) If the duty amount gets modified in any appellate proceeding, then the penalty amount would also get modified accordingly;
- f) Proceedings in pending show cause notices can be closed on payment of duty, interest and penalty @ 15% of the duty within 30 days of the Finance Bill 2015 receiving assent of the President;
- g) Proceedings in pending show cause notices which are adjudicated after the Finance Bill 2015 receives assent of the President can be closed on payment of duty, interest and reduced penalty @ 25% of the duty within 30 days of communication of the adjudication order.

Cases where no show cause notice has been issued prior to the date on which Finance Bill, 2015 receives the assent of the President, shall be governed by the new penal provisions as elucidated above.

4) Where any proceeding in appeal or revision or otherwise before any Court, Appellate Tribunal Authority or any other authority is referred back to the adjudicating authority for a fresh adjudication or decision, there would be no option of settlement. Prior to this amendment, non-availability of settlement option was restricted to those proceedings which were so referred back in appeal or revision only.

Following changes will be effective from 1 March 2015.

- 1) Scheme of Advance Rulings has been extended to resident firms.
- 2) Following products have been either brought under Schedule III (relating to deemed manufacture) to the Central Excise Act, 1944 or the existing entries in the said Schedule have been modified:

- a) Extracts, essences and concentrates, of tea or mate, and preparations with a basis of these extracts, essences or concentrates or with a basis of tea or mate;
- b) Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavored, and other non-alcoholic beverages, not including fruit or vegetable juices specified in Central Excise Tariff Heading 2009;
- c) All goods falling under Central Excise Tariff Heading 8539 (Electrical filament or discharge lamps, including sealed beam lamp units and ultra – violet or infra-red lamps; arc lamps except lamps for automobiles), LED lights or fixtures including LED lamps falling under Chapter 85 or Central Excise Tariff Heading 9405.

### **Amendments in the Central Excise Rules, 2002**

The following changes will be effective from 1 March 2015.

- 1) Following provisions of Central Excise Rules, 2002 shall apply mutatis mutandis to registered importer:
  - a) Imposition of restrictions in case of evasion of duty, default in payment of duty, irregular availment of CENVAT credit, etc.
  - b) Access to registered premises of importer by Central Excise officer for scrutiny and verification of records.
  - c) Confiscation and penal provisions for contravention of any provisions of Central Excise Rules, 2002.
- 2) Manufacturer is allowed to issue digitally signed invoices and preserve records in electronic form.
- 3) Penalty of Rs.100 per day subject to maximum of Rs 20,000 is payable for delay in filing of return including Annual Financial Information Statement, Annual Installed Capacity Statement and other returns by Manufacturer or 100% EOU.
- 4) Registration process under Central Excise is being simplified to ensure that registration is granted within two working days of the receipt of the duly

completed online application form. Verification of documents and premises, as applicable, would be carried out subsequent to grant of the registration.

### **Amendments in the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001**

The following change will be effective from 1 March 2015.

- Benefit of concessional rate of duty on inputs can now be availed on the basis of letter of undertaking instead of execution of bond with surety or security, in case where no show cause notice had been issued to the manufacturer

### **Service Tax**

The following changes will be effective from date to be notified after enactment of Finance Bill, 2015.

- a) Rate of service tax increased from 12% to 14%.
- b) Ecess and SHE Cess subsumed in the revised rate of service tax.

### ***Changes in the Negative List***

The following changes will be effective from a date to be notified after enactment of Finance Bill, 2015.

- a) Access to amusement facility will attract service tax;
- b) Admission to entertainment events will attract service tax;
- c) Any process carried out to manufacture or produce alcoholic liquor for human consumption will attract service tax; and
- d) Services, including support services, rendered by Government or local authority to a business entity will attract service tax.

### ***Change in Exemption***

The following changes will be effective from 1 April 2015.

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- 1) Exemption withdrawn on services provided to Government, local authority or governmental authority by way of construction, erection, commissioning, installation, completion in relation to the following:
  - a) Civil structure or any other original works meant predominantly for use other than for commerce, industry or any other business or profession;
  - b) Structure meant predominantly for use as i) an educational (ii) clinical (iii) an art or cultural establishment; and
  - c) Residential complex predominantly for self use or the use of employees etc.
- 2) Exemption withdrawn on the following services:
  - a) Services provided by mutual fund agent to a mutual fund or asset management company;
  - b) Services provided by distributor to mutual fund or asset management company;
  - c) Services provided by selling or marketing agent of lottery ticket to a distributor;
  - d) Services by way of making telephone calls from hospitals, airports etc;
  - e) Services of a performing artist in folk or classical art forms of music, dance or theatre where consideration charged for the performance is more than Rs 100,000.
- 3) Exemption to transportation services by rail, vessel or road of food stuffs is now restricted to food grains including flours, pulses and rice, milk and salt.
- 4) Scope of exemption widened to cover the following:
  - a) All ambulance services for transportation of patient.
  - b) GTA services for transport of export goods from place of removal to land customs station.
- 5) Exemption will be extended to the following services:

- a) Operator of common effluent treatment plant for treatment of effluent;
- b) Pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the fruits or vegetables;
- c) Admission to a museum, national park, wild life sanctuary, tiger reserve or zoo;
- d) Exhibition of movie by an exhibitor to the distributor or AOP consisting exhibitor as one of its members; and
- e) Life insurance business services for Varishtha Pension Bima Yojana.

The following changes will be effective from a date to be notified.

- 6) Exemption will be extended to the following services by way of admission to:
  - a) Exhibition of cinematographic film, circus, dance or theatrical performance including drama or ballet
  - b) Recognized sporting event
  - c) Award function, concert, pageant, musical performance, or any sporting event other than a recognised sporting event, where consideration for admission is not more than Rs 500 per person.

***Change in Reverse Charge mechanism***

The following changes will be effective from 1 March 2015.

- 1) Full reverse charge introduced in case of services provided or agreed to be provided by a person involving an aggregator.

The following changes will be effective from 1 April 2015.

- 2) Services provided by way of supply of manpower and security services amended to attract full reverse charge as against current partial reverse charge on 75%.
- 3) Full reverse charge provisions introduced on following cases:
  - a) Services provided by mutual fund agent or distributor to mutual fund or asset management company
  - b) Services provided by selling or marketing agent of lottery tickets to a lottery distributor or selling agent

### **Changes in Abatement**

The following changes will be effective from 1 April 2015.

- a) Uniform abatement rate of 70% and conditions prescribed for transport of goods and passenger by rail, transport of goods by road and transport of goods by vessel.
- b) Abatement rate introduced based on class of travel in case of transport of passengers by air. Service tax payable on 60% of value in case of travel by other than economy class and 40% in case of travel by economy class.
- c) Abatement withdrawn for services provided in relation to chit fund consequently making the entire fee liable to service tax.

### **Other Legislative changes**

The following changes will be effective on enactment of Finance Bill, 2015.

- a) Definition of 'Government' introduced to address interpretational issues arising under the negative list and exemption notification.
- b) Suitable amendments made to provide that activities undertaken by chit fund foremen and lottery distributors and selling agents are taxable.
- c) Definition of consideration amended by inserting an explanation to include:

- i. all reimbursable expenditure/ cost incurred by service provider, except as may be prescribed; and
  - ii. amount retained by distributor or selling agent of lottery being the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such tickets. Unpaid amount of service tax declared in the return will be recovered without issuance of show cause notice.
- d) Appeal against order of Commissioner (Appeals) in cases involving service tax rebate to be referred to Central Government (and not to Tribunal). Further, all pending service tax rebate cases filed from 17 July 2012 and pending before the Tribunal to be transferred to Central Government.
- e) Provisions relating to Settlement Commission not applicable to any proceeding referred back to adjudicating authority by any court, Appellate Tribunal or any other authority for fresh adjudication.

### **Penalty Provisions**

The following changes will be effective on enactment of Finance Bill, 2015.

- 1) Penalty provisions pertaining to cases not involving fraud, collusion substituted:
  - a) Penalty not to exceed 10% of service tax amount;
  - b) Penalty not applicable where service tax and interest paid within thirty days of issuance of notice;
  - c) Reduced penalty at 25% of penalty imposed provided service tax and interest and reduced penalty paid within thirty days of issuance of order;
  - d) If on appeal, service tax amount gets reduced, then benefit of reduced penalty of 25% of penalty imposed provided service tax, interest and reduced penalty paid within thirty days of appellate order.
- 2) Penalty provisions pertaining to cases involving fraud, collusion etc substituted:

- a) Penalty to be levied at 100% of service tax amount;
  - b) Reduced penalty at 15% of service tax amount applicable provided service tax, interest and reduced penalty paid within thirty days of issuance of notice;
  - c) Reduced penalty at 25% of the service tax amount provided service tax, interest and reduced penalty paid within thirty days of issuance of notice;
  - d) If on appeal, service tax amount gets reduced, then benefit of reduced penalty of 25% of penalty imposed provided service tax, interest and reduced penalty paid within thirty days of appellate order.
- 3) Transition provisions introduced in connection with aforesaid new penalty provisions
- 4) Beneficial provision of paying reduced penalty upto 25% of tax amount (during audit / investigation) in cases involving fraud, collusion done away with.

**Provisions granting waiver from penalty when there was reasonable cause for failure omitted**

The following changes will be effective from 1 March 2015.

- a) An aggregator will be liable to pay service tax on services rendered where brand name or trade name of aggregator is used. In case the aggregator does not have any presence in India, any person acting as an agent, else a person appointed by such aggregator will be liable to pay tax.
- b) Resident Firm including Limited Liability Partnership, Sole Proprietorship and One Person Company notified as eligible applicants for Customs Advance Rulings.

The following changes will be effective from 1 March 2015.

- a) Single service tax registration to be granted online within two working days of filing complete application.



- b) Provisions for issuing digitally signed invoices introduced along with option of maintaining records in electronic form and their authentication by means of digital signature.

**Amendments in the CENVAT Credit Rules, 2004**

The following changes will be effective from 1 March 2015:

- a) CENVAT credit may be taken by the manufacturer or provider of output service immediately on receipt of inputs directly in the premises of the job worker.
- b) CENVAT credit on capital goods can be taken by the manufacturer or provider of output service in respect of goods received directly in the premises of job worker, not exceeding 50% in the first year.
- c) Time limit for availing CENVAT credit on inputs and input services is enhanced from six months to one year from the date of CENVAT document.
- d) In case of CENVAT credit on inputs / capital goods sent to job worker:
  - i. CENVAT credit on inputs to be allowed where inputs are sent directly to job worker, subject to receipt of processed inputs within 180 days from the date of receipt of such inputs by job worker.
  - ii. CENVAT credit on inputs to be allowed where the processed inputs are sent from one job worker to the another job worker for further processing, subject to receipt of processed inputs within 180 days from the date of sending inputs from the factory of manufacturer or premises of provider of output service.
  - iii. CENVAT credit on capital goods to be allowed where capital goods are sent by manufacturer or provider of output service to the job worker, subject to receipt of capital goods within a period of two years from the date of sending such capital goods from the factory of manufacturer or provider of output service.
  - iv. CENVAT credit on capital goods to be allowed where capital goods are sent directly to a job worker, subject to receipt of such capital goods within a period of two years from the date of receipt of capital goods by the job worker.

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- e) Exempted goods or final products would include non-excisable goods cleared for consideration from the factory for the purposes of CENVAT credit reversal.
- f) Importer issuing invoices on which CENVAT credit can be taken is required to comply *mutatis mutandis* with the provisions applicable to first stage dealer or second stage dealer issuing such invoices.
- g) Manufacturer or provider of output service would not be required to pay interest in cases where CENVAT credit has been wrongly availed but not utilized.
- h) Manufacturer or provider of output service would be required to pay interest in cases where CENVAT credit has been wrongly availed and utilized.
- i) For the purpose of recovery of wrongly utilized CENVAT credit, the manner of determining the utilization of credit is prescribed.

The following change will be effective from 1 April 2015.

- Where service recipient is liable to pay service tax under partial reverse charge, CENVAT credit can be availed on discharge of such service tax liability without waiting for payment to provider of output service.

The following change will be effective from the date on which the Finance Bill, 2015 receives the assent of the President.

- Penal provisions relating to wrong availment and utilization of CENVAT credit have been amended to align with certain specified penal provisions under Central Excise and Service tax laws.

### About Us

We are a partnership CA firm of repute in New Delhi established in year 2003 with extensive cross functional experience of dealing with both multinational and domestic entities. We provide specialized services relating to International and domestic Taxation, Regulatory (ROC and RBI) and Assurance. The firm has been founded by Mr. Anil Agrawal, FCA who is alumni of Ernst & Young and has more than 12 years of experience in the fields of International Taxation and Regulatory matters. Our client comprises of Subsidiaries of foreign cos, Joint Ventures, Indian Corporates, LLPs, Firms, NGOs & HNI's.

We have dedicated team of Chartered Accountants, Company Secretary, Semi qualified and adequate support staff who are competent people with sharp insight and unique skill set. Our Current area of operation is NCR region comprising of Delhi, Gurgaon, Manesar and Noida. Our present multinational clientele includes clients from Turkey, USA, Australia, Dubai, Japan and Netherland.

#### OUR SERVICE AREA

- **Income Tax Assessment & Litigation**
- **Transfer Pricing Audit/Assessment & Documentation**
- **International & Domestic Tax Advisory & Compliance**
- **Assurance/ Auditing Service**
- **Expatriate Tax/ NRI Tax Advisory & Compliance**

#### OUR SERVICE AREA

- **Outsourcing of Accounting & Payroll**
- **DVAT/CST Advisory & Compliance**
- **Service Tax Advisory & Compliance**
- **Valuation Services**
- **FEMA/RBI regulations advisory & compliance**
- **Company law Advisory & Compliance**

#### CONTACT US



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