

HEARD & NOT HEARD
IN THE BUDGET SPEECH

Effects On You

Budget 2016 -17

Central Excise

- Central Excise introduced on Jewellery
- Revised return option
- 'Annual Return' to replace ER – 5 (Annual) and ER – 6 (Monthly) returns

Service Tax

- Krishi Kalyan Cess – 0.5% on value of taxable service
- Interest for late payment rationalised
- Air-conditioned stage carrier becomes taxable

Income Tax

- Income declaration scheme, 2016 – Tax 30% + Surcharge 7.5% + Penalty 7.5%
- Rate of tax for new companies – 25% + SC + Cess ; Small Companies – 29% + Cess
- Capital Gain Incentive on Start-ups

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Senior Partner Paul Thangam Writes.....

“

The Union Budget 2016-17 presented by our Hon'ble Minister of Finance Shri. Arun Jaitley is a balanced budget where the Government has committed for "minimum government maximum governance". It has been proposed to provide Aadhar a statutory framework and link the disbursement of subsidies and other government transfers with Aadhar. More emphasis has been given on creation of Infrastructure by way of faster completion of the existing road projects. Ease of doing business has been the mantra of this Government and in line with it, the permit raj of motor vehicles has been proposed to be abolished. On the taxation front, the Indirect Tax collection has been proposed to be increased by way of new levy of Krishi Kalyan Cess on Services, Infrastructure Cess on Vehicles. Procedural simplifications have been brought about, rates of interest have been rationalized, penal provisions amended, higher deductions for housing loans, reduction in corporate tax rate for small companies & start-ups have been proposed which are in the best interests of every tax paying citizen and the business community.”

A detailed analysis on the taxation proposals is presented for your valuable information.

SERVICE TAX

Krishi Kalyan cess on the value of all services

A new cess called "KRISHI KALYAN CESS" is going to be levied on the taxable value of all services at the rate of 0.5%. This cess will be levied with effect from 1st June 2016. However the CENVAT credit can be taken on the KRISHI KALYAN CESS paid on the input services used for providing output service.

Increase in the normal period to issue show cause notice

The service tax department issues show cause notice under section 73 of the Finance Act, 1994 to recover the service tax not levied or paid or short-levied or short-paid or erroneously refunded. This show cause notice has to be issued within a period of 18 months from the relevant date, when there is no fraud or collusion or wilful mis-statement or suppression of facts. This is called normal period of limitation. This period is extended from 18 months to 30 months.

Interest for delayed payment of service tax

Section 75 of the Finance Act, 1994 provides for the levy of interest on delayed payment of service tax. But the rate of interest for such delayed payment is specified in the notification only. The earlier notification 12/2014 provided for an interest of 30% for the delayed payment of more than one year. Now this has been rationalized in the following manner

SITUATION	Rate of interest
Collection of any amount as service tax but failing to pay the amount so collected to the credit of the Central Government on or before the date on which such payment becomes due.	24%
In any other case not covered in the above situation	15%

Now there is clear distinction is made between the collection of the amount and non-payment to the government and the service tax not collected by the assessee. This is a very beneficial amendment.

Changes with respect to abatements

Notification number 26/2012 gives abatements to some of the services specified in the notification. Due to this notification only, the services specified therein are taxable only for the partial portion of the total value charged by the service providers. This notification is amended in the following manner.

No	Nature of Service	Amendment
1	Transport of goods by rail	CENVAT credit on input services made eligible
2	Transport of goods in containers by rail by any person other than Indian Railways.	This is a new entry in the abatement notification. Here taxable portion is 40%. CENVAT credit is not available for the capital goods and inputs
3	Transport of passengers, with or without accompanied belongings by rail	CENVAT credit on input services made eligible
4	Services of goods transport agency in relation to transportation of goods.	This name is substituted as follows: Services of goods transport agency in relation to transportation of goods other than used household goods.
5	Services of goods transport agency in relation to transportation of used household goods.	This is a new service introduced by this amendment notification. For this service the taxable portion is 40%
6	Services provided by a foreman of chit fund in relation to chit	A new entry is introduced. In case of services provided by foreman of chit the taxable portion is 70% only
7	A stage carriage	The services provided by an air-conditioned stage carriage is made liable to service tax with taxable portion at 40%
8	Transport of goods in vessel	CENVAT credit on input services made eligible
9	Package tour and other than package tour	These two entries has been combined. The taxable portion has been uniformly fixed at 30% (earlier in package tour the taxable portion was 25% & In case of other tours the taxable portion was 40%). The definition of package tour is also omitted
10	Transport of goods in vessel	CENVAT credit on input services made eligible

Transportation of Passengers by Air-Conditioned Stage Carrier has become taxable

Section 66D of the Finance Act, 1994 specifies the negative list of services. The services specified in this section are not liable to service tax. One such service specified is service of transportation of passengers, with or without accompanied belongings, by a stage carriage. This entry is omitted. But the mega exemption notification is amended to provide that transportation of Passengers by a Non-Air-Conditioned Stage Carrier continues to be exempt. So the transportation of Passengers by a Stage Carrier having air-conditioned facility has become a taxable service. But the tax is payable on the 40% of the value only. This becomes taxable with effect from 1st June 2016.

Spectrum comes under the category of declared services

Section 66E of the Finance Act, specifies some activities as declared services. To eliminate the dispute whether some activities constitute service or not only this section has been introduced. With the political controversy surrounding the allocation of "2G Spectrum", most of us will know what is spectrum.

Now the following new entry has been made in the Section 66E to ensure that the Spectrum is taxable as Service and not as intangible goods.

"assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof"

Increase in the monetary limit for launching prosecution by the department

Section 89 of the Finance Act, 1994 provides for the launching prosecution against persons who

- ❖ Knowingly evades the payment of service tax (or)
- ❖ Avails and utilises credit of taxes or duty without actual receipt of taxable service or excisable goods (or)
- ❖ Maintains false books of account or fails to supply any information which he is required to supply to the department (or)
- ❖ Collects any amount as service tax but fails to pay the amount so collected to the credit of the Central Government beyond a period of six months.

The earlier monetary limit fixed for launching the prosecution is Rs.50 Lakhs. But now this limit is raised to Rs. 2 Crores.

Exemption for the Construction Contracts to the Government Restored in a limited way

With effect from 1-4-2015 the construction contracts provided to the Government became taxable due to omission of the entry in the mega exemption notification. Due to this fact the contracts entered prior to this date also became taxable. But this became the dispute between the contractor and the Government agencies, which gave the contracts. These government bodies refused to pay the service tax to the contractor (Service Provider) that there was no clause in the contract for the payment of service tax. To get over this situation this exemption is restored in a limited way. The construction contracts entered with the government prior to 1st March 2015, shall continue to be exempt from service tax. The contracts should be completed on or before 31st March 2020. After this date even if the contract continues it will become taxable. This exemption will not be applicable to the new contracts entered into after 1st March 2015.



Central Excise & Jewellery Industry

Manufacture of jewellery articles has been made liable for Excise Duty. 2 options have been given for the jewellery manufacturers –

- Pay Duty without availing CENVAT Credit – 1%
- Pay Duty after setting off CENVAT Credit – 12.5%

(Silver articles not studded with diamond, ruby, emerald or sapphire are exempted)

Some procedural relaxations have been given to the jewellery manufacturers.

- Central Excise provisions mandate that every factory (i.e. place of manufacture) of the manufacturer needs to get a separate registration. However, option has been given to the jewellery manufacturers to get centralised registration of their factory or office. However the following conditions have been stipulated:
 - Centralised billing or accounting must be followed from that premises.
 - Accounts/records showing receipts of raw materials and finished excisable goods manufactured or received back from job workers are kept in that premises.
 - Give details of all premises (other than those of job worker's), from where such specified goods are removed for domestic clearance.
- The provisions of registration under Central Excise were amended in the Union Budget 2015-16 providing that the Central Excise officer shall visit the premises of the manufacturer within 7 days of the date of application. This Physical Verification of the premises is not required for a manufacturer of jewellery.
- Generally payment of excise duty and filing of return is on a monthly basis. However, the benefit of Quarterly payment and quarterly return filing is eligible for SSI units. For all goods, a manufacturer is considered as an SSI unit if the value of aggregate clearances in the preceding financial year does not exceed Rs.4 Crores. However, for the jewellery manufacturers, considering the value, the limit for the determination of SSI has been fixed at Rs.12 Crores in the preceding financial year.
- If a jewellery manufacturer qualifies as an SSI unit (preceding financial year less than Rs.12 Crores), then the jewellery manufacturer need not pay excise duty on turnover upto Rs.6 Crores during the current financial year. (This limit is Rs.1.50 Crores for all other goods)

- For the month of March 2016, it has been provided that Central Excise exemption would be applicable for aggregate value of clearances upto Rs.50.00 Lakhs.
- Excise Duty for manufacture of refined gold bars or refined silver increased by 0.5% (From 9% to 9.5% for Refined Gold Bars & From 8% to 8.5% for Refined Silver)

Rate of Interest reduced

Delayed payment of Central Excise or Customs attracts interest. The interest rate has been reduced from 18% to 15%.

Single registration for factories under the range of same Superintendent

Every factory of manufacturer has to get a separate registration under the current provisions. The exception was only when two premises were separated by public road, railway line or canal. However, under the amended provisions, the Commissioner of Central Excise may grant a single registration if

- Two or more premises of the same factory are located within a close area
- In the jurisdiction of the same Range Superintendent
- The manufacturing process undertaken therein are interlinked,
- The units are not operating under any of the area based exemption notifications,
- Proper account of the movement of goods from one premise to other
- Such other conditions and limitations as imposed by Commissioner

Period of limitation extended to 2 years

Currently the period of limitation for issue of Show Cause Notice (SCN) is 1 year. Only in case of fraud, collusion, suppression of facts, misstatement or contravention of law with intent to evade payment of duty, the department can invoke the extended period of limitation i.e. 5 years. However, as a usual practice the extended period of limitation will always be invoked. When the extended period is invoked, the penal provisions are also higher. However, since the normal period of limitation has been extended to 2 years, it will be a beneficial provision only considering that the penal provisions would be lighter for any short-payment of duty.

Filing of revised return

Revised return may be filed for the monthly or quarterly excise return within the end of the month in which the original return is filed. This is also subjected to the condition that the original return should have been filed within the due date prescribed. In case of annual return (newly introduced in this Budget) also, revised return option is made available. In such a case, the revised return may be filed within a period of one month from the date of filing the original Annual Return.

Instructions issued by CBEC

CBEC has the power to issue instructions to Central Excise Officers. Currently, the power was only for issuing instructions with regard to classification of goods or levy of duty. Henceforth, the instructions can be given for implementation of any provisions of the Central Excise Act.

AMENDMENT IN CENVAT CREDIT RULES

CENVAT Credit on Capital Goods

- Railway or tramway goods vans and wagons, not self-propelled open with non-removable sides of a height exceeding 60 cms (CETA Code : 860692) is also an eligible Capital Goods
- Any equipment or appliance used in an office was excluded from the definition of Capital Goods. Now the exclusion portion has been removed. Henceforth, if the goods fall within the list and is used in office also, it shall be eligible for CENVAT on Capital Goods.
- Capital Goods of value less than Rs.10,000/- per piece shall not be considered as Capital Goods and shall be considered as Inputs itself, thus making it eligible for 100% CENVAT Claim in the year of receipt of goods in the factory itself.

CENVAT Credit and Pump industry

Capital Goods have to be essentially used in the factory of the manufacturer. However, this condition is not applicable for the capital goods used in the generation of electricity. The benefit has been extended to capital goods used in the pumping of water also. Hence capital goods used for pumping of water will be eligible for CENVAT Credit even if not used within the factory. The condition as to that the electricity must be captively consumed within the factory has been retained and would now apply for the pumped water also.

Definition of inputs has also been amended to provide for CENAT credit on inputs used for pumping of water.

ER-5 & ER-6 replaced with a single Annual Return

Currently, excise manufacturers are required to file information relating to principal inputs by way of 2 forms – ER – 5 (Annually) and ER – 6 (Monthly). It has been proposed to dispense off with both the existing forms and a single Annual Return will be notified which has to be filed before the 30th day of November.

Time limit for filing application of refund by exporter of services

Rule 5 provides for refund of CENVAT Credit. The refund application has to be filed in Form A by a service provider before the expiry of one year from date of a) Receipt of amount (in convertible foreign exchange) where the amount was received after the provision of service (or) b) Issue of invoice where the amount was received prior to the date of invoice.

Other Amendments In Central Excise & Service Tax

Infrastructure Cess

The Union Budget has introduced a new cess called as Infrastructure Cess to be levied on Motor Vehicles.

Petrol/LPG/CNG driven motor vehicles of length not exceeding 4m and engine capacity not exceeding 1200cc	1%
Diesel driven motor vehicles of length not exceeding 4m and engine capacity not exceeding 1500cc	2.5%
Other higher engine capacity motor vehicles and SUVs and bigger sedans	4%

Other Amendments

- Rule 6 of CENVAT Credit Rules dealing with the manner of claiming CENVAT Credit when a manufacturer is involved in manufacture of dutiable & exempted goods or a service provider engaged in providing taxable and exempted services has been amended
- Transporters of goods from Customs Station in India to a place outside India will be eligible to claim CENVAT Credit
- Readymix concrete manufactured at site of construction for use in the site – Exempted from Excise
- Mineral water & aerated water – Excise Duty increased from 18% to 21%
- Reduced rate of duty at 6% for refrigerated containers used for food processing
- Reduced rate of duty at 6% for Electric motor, shafts, sleeve, chamber, impeller, washer required for the manufacture of centrifugal pump
- Annual return prescribed in service tax also
- Services provided by Senior Advocate will be taxable in the hands of service provider (and not under Reverse Charge)
- Clarity has been brought about in the taxation of Information Technology Software – levy of Central Excise and levy of Service Tax. It has been brought about by notifications in Central Excise and Service Tax that the levy of Excise and Service Tax would be mutually exclusive.



INCOME TAX AMENDMENTS

Reduced rate of tax for new companies

A new section 115BA has been introduced to provide for the taxation of newly started companies at the rate of 25% plus applicable surcharge and cess. But this reduced rate of tax is subject to the following conditions

- ✦ The company has been setup and registered on or after 1st day of March, 2016;
- ✦ The company is engaged in the business of manufacture or production of any article or thing and is not engaged in any other business;
- ✦ The option is furnished in the prescribed manner before the due date of furnishing of income.
- ✦ The company has not claimed the additional depreciation or accelerated depreciation or investment allowance or SEZ exemption
- ✦ There shall not be set-off of the loss carried forward from the earlier years

Rate of tax for small companies reduced

All domestic companies are currently taxed at 30%. It has been proposed to reduce the tax rate to 29% for small companies. Companies which have made a total turnover or gross receipts of Rs.5 Crores or less during the previous year 2014-15 will be eligible for this reduced tax rate.

Agreement prior to date of regn. of immovable property

In respect of capital assets involving land or building or both, if the date of agreement fixing the consideration for the transfer is prior to the date of actual registration, then the date of agreement shall be taken into consideration for determining the amount of sale consideration as per Section 50C (sale consideration will be the value adopted or assessed by the stamp valuation authority). This is subject to the condition that consideration or a part thereof has been paid by way of an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, on or before the date of the agreement for the transfer of such immovable property.

Incentive to encourage indigenous R&D Activities

Research and Development is required to improve the production process or to develop new innovative products. In order to encourage indigenous research & development activities and to make India a global R & D hub, The government is proposed to insert new section 115BBF to provide that where the total income of the eligible assessee income includes any income by way of royalty in respect of a patent developed and registered in India, then it will be taxable at the reduced rate of 10% on the gross amount of royalty. No expenditure or allowance in respect of such royalty income shall be allowed under the Act. (w.e.f. FY 2016-17)

Tax Incentive on Start-ups

With an objective to provide an incentive to an individual or HUF willing to promote a start-up company by selling a residential property, exemption from capital gains which arises on the sale of such residential property is proposed to be given in Section 54GB of the Income Tax Act. If the individual or HUF invests in the shares of such start-up company, it is proposed to amend section 54GB so as to provide that long term capital gains arising on account of transfer of a residential property shall not be charged to tax. The company should be an eligible start-up company subject to the condition that the individual or HUF holds more than fifty per cent shares of the company and such company utilises the amount invested in shares to purchase new asset. It has also been proposed to amend section 54GB so as to provide that the expression "new asset" includes computers or computer software in case of technology driven start-ups.

The Income Declaration Scheme, 2016

An opportunity is proposed to be provided by way of a limited period compliance window for domestic taxpayers to declare undisclosed income or income represented in the form of any asset and clear up their past tax violation. This scheme requires the tax payer to pay tax at 30% + surcharge at 7.5% + penalty at 7.5%, which is a total of 45% of the undisclosed income. The surcharge levied at 7.5% of undisclosed income will be called 'Krishi-Kalyan surcharge' which will be used for agriculture and rural economy. The scheme is proposed to be brought into effect from 1st June 2016 and will remain open up to the date to be notified by the Central Government in the official gazette.

Change in TDS limits:

Under the scheme of deduction of tax at source as provided in the Act, every person responsible for payment of any specified sum to any person is required to deduct tax at source at the prescribed rate and deposit it with the Central Government within specified time. However, no deduction is required to be made if the payments do not exceed prescribed threshold limit. Some of the amendments in commonly used sections:

Sec	Nature of Expenditure	Existing Threshold Limit (Rs)	Proposed Threshold Limit (Rs)
194C	Payments to Contractors	Aggregate of 75,000	Aggregate of 1,00,000
194D	Insurance commission	20,000	15,000
194H	Commission or brokerage	5,000	15,000

Sec	Nature of Expenditure	Existing Rate of TDS	Proposed Rate of TDS
194DA	Payment in respect of Life Insurance Policy	2%	1%
194D	Insurance commission	10%	5%
194H	Commission or brokerage	10%	5%

Amendments with respect to Audit and Presumptive Taxation

- ✦ Turnover Limit for audit under section 44AB of Income Tax Act increased from Rs.1 Crore to Rs.2 Crores for a person engaged in business. However, if an assessee having turnover less than Rs.2 Crores declares income less than 8% of the gross receipts, then he shall get the books of accounts audited. (assessee should follow the same presumptive basis for 5 Assessment Years)
- ✦ In case of professionals, audit is required only if the gross receipts exceed Rs.50 Lakhs. The professional is required to offer 50% of gross receipts or more as income as per the newly introduced presumptive taxation system under Section 44ADA. Hence, if a professional having income less than Rs.50 Lakhs declares income less than 50%, he shall get the books of accounts audited.
- ✦ An assessee who opts the presumptive income basis shall be required to pay advance tax of the whole amount in one instalment on or before 15th March of the previous year

Other Amendments

- ✦ Additional Deduction of Housing Loan interest paid upto Rs.50,000/- is eligible for an individual who borrows loan (during the FY 2016-17) less than Rs.35 lakhs for acquisition of residential house property value of which is less than Rs.50 Lakhs. The assessee should not own any residential house property on the date of sanction of loan.
- ✦ Claiming the full deduction of Rs.2,00,000/- in respect of interest paid on housing loan u/s. 24(b) was possible only if the construction was completed within 3 years of borrowal of loan. Considering the slowdown in construction activities, it has been proposed to enhance this period from 3 years to 5 years.
- ✦ TDS has to be deducted if the rent paid during the year exceeds Rs 1,80,000/-. If the recipients has income below the taxable limit (maximum amount not chargeable to tax) he can self-declare the same in Form 15G/15H and furnish it to the payer. In such a case no TDS has to be deducted.
- ✦ PAN of the deductee is required to be furnished to the deductor at the time of deduction. If PAN is not available, then TDS will have to be deducted at the rate of 20%. However, now it has been proposed to exempt Non-Residents, not being a company, or to a foreign company from this section. Thus even if PAN is not available, it will not attract the higher TDS rate of 20%. It is proposed to amend the relevant provisions of the Act so as to provide adequate legal framework for paperless assessment in order to enhance efficiency and reduce the burden of compliance.
- ✦ Under section 87A, a Resident Individual whose Total taxable income is less than or equal to Rs.5,00,000/- can claim rebate of maximum Rs.2000/-. It has been proposed to enhance the rebate to a maximum of Rs.5,000/-.
- ✦ Any individual not receiving house rent allowance who spends more than 10% of his income towards rent is entitled to receive a deduction of Rs. 2000/- per month U/s 80 GG. It has been proposed to enhance the deduction from Rs. 2000/- to Rs. 5000/- per month u/s 80GG.
- ✦ Surcharge at 15% will have to be paid by individuals whose income exceeds Rs.1 Crore.
- ✦ Individual, HUF or a firm, resident in India receives income by way of dividends declared, distributed or paid by a domestic company more than Rs.10 Lakhs, tax will have to be paid without any deduction for expenditure at the rate of tax is 10% plus applicable cess and surcharge.(Section 115BDDA).

With Support Of All Articled Assistants And Staff

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