

# Budget Flash 2016

The Union Finance Minister reiterated resolve to implement the Goods and Service Tax (GST) by making an endeavor to ensure the passage of Constitutional Amendments to enable the implementation of GST. The highlight is that he did not mention any prospective date for GST. As per the Minister, on the fiscal front, the focus of the Finance Bill is on rationalizing tax provisions and tax reforms to reduce compliance burden with faith in the citizenry. A quick reading of the proposals, however, does not vouch for reduction in compliances; however, some rationalization measures are visible.

Following are the Highlights of the major changes in the service tax, excise and customs law proposed under the Finance Bill, 2016

## Service Tax

### *Scope of Taxable Services Expanded (w.e.f. date of enactment of the Finance Bill, 2016)*

- Activity of right to use the radio frequency spectrum and subsequent transfers would now be a declared service.
- Services of transportation of passengers by a stage carriage excluded from Negative List. Simultaneously, an exemption granted for the services of non-air conditioned stage carriage. Thus services of air conditioned stage carriage become taxable.
- Service of transportation of goods by an aircraft or a vessel from a place outside India upto the customs station of clearance is excluded from the Negative list. Simultaneously, an exemption granted for the said services by provided by an aircraft. Thus services by way of vessel transport from outside India to customs station in India have become taxable.
- Services relating to education excluded from the negative list. Simultaneously, an exemption granted to these services.

### *Service Tax Rate & Base*

There is no change in the existing base rate of 14% and Swach Bharat Cess of 0.5%. Proposed changes are –

- New levy of Krishi Kalyan Cess (KKC) on all services @0.5% on the value of service. KKC would be CENVARIABLE against KKC. (w.e.f. 01-06-2016)
- Alternate rate of tax of 3.5% on total premium reduced to 1.4% in case of single premium annuity insurance policies. (w.e.f 01-04-2016)



**Rate of Interest** (w.e.f. date of enactment of the Finance Bill, 2016)

Existing rates of interest are very high and have been provided in a graded manner. Proposed rates of interest are –

- 24% in case tax is collected but not deposited
- 15% in all other cases
- 15% for tax due under Section 73B

**Date of Application of New Levy**

- Point of taxation rules have been amended to provide that in case of new levy also, Rule 5 thereof shall apply. Hitherto this rule was applicable only in cases where new services were being taxed. (w.e.f 01-03-2016)

**Modifications in taxable value of services – abatements**

Abatements have been modified both in terms of value and in terms of credit availment conditions. Proposed changes are –

- **Tour operator services** – Only two slabs of abatements would remain now in place of earlier three slabs (w.e.f. 01-04-2016)
  - Abatement of 90% for only activity of accommodation booking
  - Abatement of 70% for all other services
- **Construction of Complex services** – Only single abatement would remain now in place of earlier abatements under two slabs (w.e.f. 01-04-2016)
  - 70% on all constructions where contract value includes value of land
- **Transport of Goods by Rail** – Two slabs of abatements introduced now in place of single abatement earlier (w.e.f. 01-04-2016)
  - Abatement of 70% on all services by Indian railways ; and non-containerized freight services by other persons
  - Abatement of 60% on containerized freight services by persons other than India railway
 Credit of input service would now be allowed on these services.

- **Transport of passengers by Rail** – Abatement of 70% is remaining the same. Credit of input services would now be allowed on these services. (w.e.f. 01-04-2016)
- **GTA services** - Two slabs of abatements introduced now in place of single abatement earlier (w.e.f. 01-04-2016)
  - Abatement of 70% on transport of goods other than used household goods.
  - Abatement of 60% on transport of used household goods.

The transport of used house hold goods typically refers to movers and packers services.

- **Services by foreman to chit fund** – An abatement of 30 % reintroduced (w.e.f. 01-04-2016)
- **Transportation of passengers services** –
  - The existing abatement of 60% made available for the services of transport by stage carriage also (w.e.f. 01-06-2016)
  - Gross value of service to include cost of fuel also for computing abatement amount. (w.e.f. 01-04-2016)

## *Service Tax Exemptions*

### **A. Exemptions from retrospective effect**

- Services of construction, erections, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of canal, dam or other irrigation works provided to an establishment by the Government. The period of exemption is from 01-07-2012 to 29-01-2014. Post this period, the same exemption is operative already. Since the exemption is relating to the past period, a refund mechanism has been given in the law for the taxes paid, if any. (w.e.f. date of enactment of the Finance Bill, 2016).
- Services provided by the IIMs in relation to the specified courses/ programs. As per the TRU letter, this exemption is more like a clarification, and thus applies for the past also. (w.e.f. 01-03-2016)

### **B. Exemptions restored – which were withdrawn earlier**

- Last year, w.e.f. 01-04-2015, certain exemptions were withdrawn on the
  - I. services relating to construction, erection, etc., provided to Government, A local authority, or a Governmental Authority pertaining to –
    - a civil structure or original works meant for other than, commerce or industry or profession
    - a structure for use as educational, clinical or cultural establishment
    - a residential complex meant for self use
  - II. and services of construction, erections etc. of original works pertaining to a airport or port provided to any person

The above exemption(s) are now being restored till 31-03-2020 for the services provided under a contract executed prior to 01-03-2015 on which applicable stamp duty was also paid prior to the said date.

The restored exemption covers two periods – (1) 01-04-2015 to 29-02-2016: (2) 01-03-2016 to 31-03-2020. For the period from 01-04-2015 to 29-02-2016, the Government has also provided for refund mechanism for the taxes paid already paid, if any.

### **C. Exemptions newly Introduced**

- Reference to Information Technology (IT) Services, an exemption has been granted from service tax in case of supply of IT on such media (under chapter 85 of CETA, 1985) which bears Retail Sales Price (RSP) subject to the condition of payment of appropriate Excise duty or CVD thereon. Also the Government has granted exemption of excise and the respective CVD in case of imports for the IT software recorded on a media where there is no requirement to mentions RSP on the package sold. This exemption is limited to the extent of value of software loaded on the media. (w.e.f. 01-03-2016)
- Life insurance services by way of annuity under the NPS regulated by PFRDA (w.e.f. 01-04-2016)
- Service by SEBI by way of protecting interest of investors and to promote develop and regulate securities market. (w.e.f. 01-04-2016)
- Service by Employees Provident Fund Organization (EPFO) to persons governed under the respective Act (w.e.f. 01-04-2016).
- Services by IRDA to insurers under the respective Act. (w.e.f. 01-04-2016)
- Services by National Centre for Cold Chain development by way of Cold Chain knowledge dissemination. (w.e.f. 01-04-2016)

- Services by Bi-technology industry research assistance council (BIRAC) approved by Bio-Technology incubators to the incubatees. (w.e.f. 01-04-2016)
- Services of health insurance under Niramaya Health Scheme for welfare of persons covered under Autism, cerebral palsy, mental retardation and multiple disabilities Act , 1999. (w.e.f. 01-04-2016)
- Services by way of skill, vocational training by Deen Dayal Upadhaya Gramin Kaulshlya Yojna training partners. (w.e.f. 01-04-2016)
- Services by assessing bodies under SDI scheme, empanelled centrally by Ministry of Skill Development and Entrepreneurship. (w.e.f. 01-04-2016)
- Services by way of construction, erection etc of civil structure or original works pertaining to
  - The In-situ rehabilitation of existing slum-dwellers.(w.e.f. 01-03-2016)
  - The beneficiary-led individual house construction/ enhancement component of specified schemes. (w.e.f. 01-03-2016)
  - Low cost houses upto a carpet area of 60 sqm. per house in a project under specified housing schemes of Government. (w.e.f. 01-04-2016)
- Services of transportation of goods by an aircraft from outside India upto the Customs station clearance of India. (w.e.f. 01-06-2016)
- Services by a stage carriage other than air-conditioned stage carriage. (w.e.f. 01-06-2016)

#### ***D. Exemptions modified***

- Services provided by performing artist in folk or classical art forms of music, dance or theater are now exempted upto Rs. 1.5 lacs consideration as against earlier Rs. 1.00 lacs per performance. (w.e.f. 01-04-2016)

#### ***E. Exemptions Withdrawn***

- Services by a senior advocate to an advocate or partnership firms of advocates. (w.e.f. 01-04-2016)
- Services by a person represented on an arbitral tribunal to an arbitral tribunal. (w.e.f. 01-04-2016)  
In both the above cases, there would be direct charge of service tax, i.e. reverse charge would not be applicable.
- Services of transport of passengers by rope way, cable car, aerial tramway. (w.e.f. 01-04-2016)
- Services of construction, erection etc. of original works pertaining to mono rail or metro. Where contracts were made before 01-03-2016 on which appropriate stamp duty was paid shall remain exempt. (w.e.f. 01-04-2016)

#### ***Service Tax Reverse Charge Liability***

- Reverse charge liability under service tax is no more applicable for the services provided by–
  - Senior Advocates (w.e.f. 01-04-2016)
  - Mutual Fund distributors or agents to an asset management company (w.e.f. 01-04-2016)
- Scope of reverse charge liability in case of support services provided by Government has now been extended to all taxable services provided by the Government barring specified services where reverse charge liability was not there earlier also. (w.e.f. 01-04-2016)

#### ***Service Tax Returns (STRs)***

- In addition to the existing STRs, an Annual Return would now be required to be filed by 30th November of the subsequent year.
- The annual return would have to be filed by the assessee having turnover of taxable service beyond a given threshold.

- The return can also be revised within one month of the date of submission.
- In case of delay, an amount of Rs. 100 per day upto a maximum of Rs. 20,000/- would be payable

#### ***Exports Benefit of input service taxes under NN. 41/2012-ST***

- Notification 41/2012 has been rectified for technical clarity. The corresponding benefit is thus allowed to be claimed for the past period also, beginning from 01-07-2012. The claim is to be made within one month of the enactment of the Finance Bill, 2016.

#### ***SCN, Prosecution and Dispute Resolution (w.e.f. date of enactment of the Finance Bill, 2016)***

- Limitation period for issuance of SCN increased from 18th months to 30th months.
- Arrest can now be made only in case where tax is not deposited after collection of an amount exceeding Rs. 2 crores, earlier it was Rs. 50 lacs.
- A dispute resolution scheme has been introduced to resolve the disputes which are pending before the Commissioner (Appeals) as on 01-03-2016. The assessee can opt to close the matter on payment of tax, interest and 25% of penalty imposed. The detailed procedure and formats will come later. The scheme can be opted upto 31st December 2016 by way of a declaration.

## **CENVAT CREDIT**

#### ***Definitions of Capital Goods expanded (w.e.f 01-04-2016)***

- Capital Goods would now also include –
  - Wagons of Tariff sub-heading 860692
  - Equipments or appliances used in an office in the factory of manufacturer
  - Goods used outside the factor for pumping of water for captive use within the factory

#### ***Definition of Inputs expanded (w.e.f 01-04-2016)***

- Inputs would now also include –
  - All goods used for pumping of water for captive use
  - All capital goods having value upto Rs. 10,000/- per piece

#### ***Definition of Exempted Services pruned (w.e.f 01-03-2016)***

- Exempted services would now exclude services of transportation of goods by vessel from customs station in India to outside India.

#### ***Scope of ISD increased***

- Input Service Distributor can now distribute credit to outsourced manufacturing unit (job worker) also, who is discharging excise duty liability on the related products.

#### ***Conditions for availing CENVAT Credit modified***

- A jewellery manufacturer (other than silver jewellery without precious stones) can avail credit of 100% duty paid on capital goods in the same year if his turnover in the preceding year was less than Rs. 12 crores. (w.e.f 01-03-2016)
- A manufacturer can avail CEVNAT Credit for the jigs, fixtures, moduls, dies or tools sent to another manufacturer or job worker on his behalf without bringing these to his own premises. (w.e.f 01-04-2016)

- In case of service tax paid on the charges for the service by way of assignment of the right to use a natural resources by the Government, such amount needs to be spread over the period of such assignment for the purpose of availment of CENVAT Credit. (w.e.f 01-04-2016)
- No CENVAT Credit shall be allowed on capital goods used exclusively for manufacture of exempt goods or provision of exempt services for a period of two years from the date of commencement of production or service or installation of such goods whichever is later. (w.e.f 01-04-2016)
- The provisions for sequential availment of credit (by FIFO method) introduced last year, is proposed to be amended (w.e.f. 01-04-2016).

#### ***Availment of CENVAT Credit in case of mix-output (Rule 6)***

- In the existing rules, an assessee with mix output can opt for any of the following three methods for availment of credit on taxable output-
  - Credit based on separate books of accounts maintained for taxable and exempt output
  - Credit (except that on exclusively pertaining to exempt output) based on payment of 6% or 7% of exempt turnover
  - Credit computed based on formula under sub-rule 3A – proportionate credit.

The rules have been amended to do away with the first method mentioned above.

In the remaining two methods following rationalization has been done.

- Credit based on payment of 6% / 7% of exempt turnover
  - The amount to be paid shall be subject to a maximum of total credit available in the accounts of the assessee at the end of the period to which it relates.
  - If any duty of excise is paid on exempted goods, the same can be reduced from the amount payable.
  - In case of service of transportation of goods or passengers by rail, the amount payable shall be 2% instead of 7%
- Credit computed based on formula under sub-rule 3A – proportionate credit.
  - Credit pertaining to 100% taxable output would be allowed in full.
  - Credit pertaining to 100% exempt output would not be allowed.
  - Common credit would be subject to the formula prescribed
- In context of the year 2015-16, where an assessee opted for proportionate credit method or credit based on separate accounting method, he would have to compute credit based on proportionate credit method only under Rule 6(3A) of the existing rule which would remain applicable upto 30-06-2016 for such assessee.
- In case of non-exercise of any option by the assessee, the credit would be computed based on the method proportionate credit method (based on Rule 6 (3A))
- Banking companies and NBFCs has also been given an option to opt for any of the above method in addition to the option of reversing 50% of the credit out rightly.
- Credit is not to be reversed in case the output services transportation of goods by vessel from India to outside India. (w.e.f. 01-03-2016)

#### ***Credit available based on challan issued by warehouse of manufacturer***

- Multiple factories of a manufacturer can now avail credit on the goods received by them from common warehouse of the manufacturer, under the cover of an invoice/ challan issued by the warehouse.

**CENVAT Credit Return**

- An annual return has been prescribed for manufacturer and service provider to be filed by 30th November of the subsequent year.

**Limitation period to claim refund by services exporter**

- Rule 5 amended to provide that a service provider can claim refund of input taxes in case of export of service within one year of the date of receipt of payment or issuance of invoice whichever is later.

**CENTRAL EXCISE****Excise Duty Rate & Base**

- There is no change in the standard rate of Excise duty of 12.5%.
- Infrastructure Cess is to be levied on the manufacture of motor vehicles at the following rate, without input tax credit of the proposed cess: (w.e.f. date of enactment of Finance Bill, 2016)
  - Petrol/CNG/LPG vehicles not exceeding 1,200cc : 1%
  - Diesel-driven motor vehicles not exceeding 1,500cc : @ 1.5%
  - SUVs, sedans and others : @4%
- Clean Energy Cess on coal, lignite and peat has been renamed Clean Environment Cess and the rate increased from 200 INR per tonne to 400 INR per tonne. (w.e.f.)
- Excise duty levied on ready-made garments with retail price of 1,000/- or more @ 2% (without CENVAT) and 12.5% with CENVAT. (w.e.f.)
- Excise duty levied on Jewellery other than silver jewellery not studded with precious stones @ 1% (without CENVAT) and 12.5% with CENVAT. (w.e.f.)
- Oil Industry Development Cess on domestically produced crude oil reduced from Rs. 4,500/- PMT to 20% at ad volarem (w.e.f date of enactment of the Finance Bill, 2016. Till then 20% rate would be made effective by notification from Ministry of Petroleum and Natural Gas)
- Increase in Excise duty rates in respect of tobacco products, aerated beverages, disposable aluminum foil containers, accessories of mobile phone (w.w.f. 01-03-2016)
- Decrease in Excise duty rates in respect of refrigerated containers, fertilizers, footwear, specific parts for wind power blades, specified IT products, centrifugal pump, parts and engine for electric vehicles, parts for use by railways. (w.e.f. 01-03-2016)
- Interest rates on delayed payment have been rationalised at 15%.

**Exemption**

- The Government has granted exemption of excise and the respective CVD in case of imports for the IT software recorded on a media where there is no requirement to mention RSP on the package sold. This exemption is limited to the extent of value of software loaded on the media. (w.e.f. 01-03-2016)

**Excise Registrations**

- Single Registration of multiple factories has been allowed if the factories are located within a close area in the jurisdiction of a Range Superintendent and have interlinked manufacturing process. The facility is not meant for factories under area based exemption.(w.e.f 01-03-2016)
- Single registrations of multiple factories of a manufacturer engaged in the production of articles and jewelries other than specified jewellery is allowed where the manufacturer has a centralized billing or accounting systems for such factories.



### *Excise Returns*

- The number of returns to be filed by a central excise assessee has been reduced from 27 to only 13 returns.
- Central excise return can now be revised. The revised returns are to be filed by the end of the calendar month in which the original returns are filed.

### *SCN and Dispute Resolution (w.e.f. date of enactment of the Finance Bill, 2016)*

- Limitation period for issuance of SCN increased from one year to two years.
- A dispute resolution scheme has been introduced to resolve the disputes which are pending before the Commissioner (Appeals) as on 01-03-2016. The assessee can opt to close the matter on payment of tax, interest and 25% of penalty imposed. The detailed procedure and formats will come later. The scheme can be opted upto 31st December 2016 by way of a declaration.

## CUSTOMS

### *Duty Rate & Base*

- There is no change in the standard rate of Basic Customs duty of 10%.
- Increased rate of import duty for plans, drawings and designs, e-readers and parts of e-readers, mobile charger/adaptor, battery and wired headsets/speakers for manufacture of mobile phone, specified telecommunication equipments, populated PCBs for manufacture of personal computers, PCBs for manufacture of mobile phone/ tablet computer, aluminum products, specified machinery required for construction of roads.
- Decreased rate of import duty for cold chain storage, mineral oils and fuels, chemicals and petrochemicals, wood chips or particles for manufacture of paper, fibre, yarn and fabrics, certain electronics/hardware, disposable sterilized dialyzer, micro barrier of artificial kidney, engine for hybrid vehicles.
- Decreased rate of Export duty on Ores and Concentrates.

### *Exemptions*

- The imports made under Advance license and duty free import authorization schemes made eligible for **exemption from safeguard duty** for the past period as well as prospective period. Necessary amendments made in the notification.
- The Government has granted exemption of excise and the respective CVD in case of imports for the IT software recorded on a media where there is no requirement to mention RSP on the package sold. This exemption is limited to the extent of value of software loaded on the media. (w.e.f. 01-03-2016)

### *New Baggage Rules*

- New Baggage rules notified to replace existing baggage rules. (w.e.f. 01-04-2016)
  - Customs declaration to be filed only by the passenger carrying dutiable and prohibited goods.
  - Increase in free baggage allowances for international passengers.



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