



Budget Special Edition - SBS Wiki

SBS | **Wiki**
2015 Budget Special

By

SBS and Company LLP
Chartered Accountants



CONTENTS

DIRECT TAXES----- 1

KEY PROPOSALS ----- 1

INDIRECT TAXES:----- 8

CENTRAL EXCISE - KEY PROPOSALS ----- 8

BUDGET AMENDMENTS FOR FY 15-16 PERTAINING TO SERVICE TAX----- 14

FEMA & PMLA----- 27

KEY PROPOSALS ----- 27

DIRECT TAXES

KEY PROPOSALS

Contributed by CA Ram Prasad

No change in the basic exemption limit and the tax rates of individuals subject to increase in surcharge - Changes Relating to Rates of Income Tax:

S. No.	Person	Slab Rates		Surcharge
		Total Income	Rate (%) *	
1	Individual/AOP/BOI/HUF/AJP/NR (Individual)	Up to Rs. 2.5 Lakhs	NIL	@ 12% if Total Income exceeds Rs. 1 Crore
		Rs. 2,50,001 to Rs. 5 Lakhs	10	
		Rs. 5,00,001 to Rs. 10 Lakhs	20	
		Above Rs. 10 Lakhs	30	
2	Senior Citizen (60yrs above less than 80 years)	Up to Rs. 3 Lakhs	NIL	@ 12% if Total Income exceeds Rs. 1 Crore
		Rs. 3,00,001 to Rs. 5 Lakhs	10	
		Rs. 5,00,001 to Rs. 10 Lakhs	20	
		Above Rs. 10 Lakhs	30	
3	Very Senior Citizen (80 years or above)	Up to Rs. 5 Lakhs	NIL	@ 12% if Total Income exceeds Rs. 1 Crore
		Rs. 5,00,001- 10 Lakhs	20	
		Above Rs.10 Lakhs	30	
4	Partnership Firm / LLP		30	@ 12% if Total Income exceeds Rs. 1 Crore
5	Domestic Company	Up to Rs. 1 Crore	30	NIL
		Above Rs. 1 Crore & up to Rs. 10 Crores		7%
		Above Rs. 10 Crores		12%
6	Foreign Company	Up to Rs. 1 Crore	40	2%
		Above Rs. 1 Crore		5%
7		Up to Rs. 10,000	10	

	Co-Operative Society	Rs. 10,001 to Rs. 20,000	20	@ 12% if Total Income exceeds Rs. 1 Crore
		Rs. 20,001 and above	30	
8	Local Authorities		30	@ 12% if Total Income exceeds Rs. 1 Crore

* Corporate tax rates proposed to be reduced from 30% to 25% over the next four years, starting from next financial year.

Note: For the financial year 2015-2016, additional surcharge called the "Education Cess on income-tax" and "Secondary and Higher Education Cess on income-tax" shall continue to be levied at the rate of two per cent and one per cent respectively, on the amount of tax computed, inclusive of surcharge (wherever applicable), in all cases.

I. "Sukanya Samridhi Account Scheme":

In exercise of powers available under Section 80C (2) (viii) of the Income-tax Act, 1961 ("the Act"), the Central Government had notified a scheme known as "Sukanya Samridhi Account Scheme" vide Notification No. G.S.R. 863(E) dated 02-12-2014.

Under the scheme, an amount deposited as per the provisions of the scheme was eligible for deduction under section 80C. The interest accruing on deposits in such account will be exempt from income tax and the withdrawal from the said scheme in accordance with the rules of the said scheme will be exempt from tax.

The Finance Bill, 2015 proposes to amend Section 80C(2)(viii) so as to provide that subscription to any such security of the Central Government or any such deposit scheme as that Government may, by notification in the Official Gazette, specify in this behalf may be made in the name of any person specified in sub-section (4) thereof.

The Finance Bill, 2015 also proposes to insert clause (ba) in sub-section (4) of the above section which specifies the following persons for the purposes of Section 80C (2) (viii):

1. the individual, or
2. any girl child of that individual, or
3. any girl child for whom such person is the legal guardian,

The Finance Bill 2015 also proposes to amend section 10 by inserting a new clause (11A) so as to provide that any payment from an account opened in accordance with the Sukanya Samriddhi Account Rules, 2014 made under the Government Savings Bank Act, 1873, shall not be included in the total income of the assessee.

This amendment will take effect retrospectively from 1st April, 2015 and will, accordingly, apply in relation to assessment year 2015-16 and subsequent years.

- Pradhan Mantri Suraksha Bima Yojna to cover accidental death risk of Rs.2 Lakh for a premium of just Rs.12 per year;
- Pradhan Mantri Jeevan Jyoti Bima Yojana to cover both natural and accidental death risk of Rs.2 lakh at premium of Rs.330 per year for the age group of 18-50;
- Proposed to reduce the rate of Tax for Corporates from 30% to 25% over the next 4 years;
- Income tax on royalty or fees for technical services (FTS) to be reduced from 25% to 10% for non-residents;
- Residential Status of a company, other than Indian Company, shall be determined on the basis of Place of Effective Management in India;
- Wealth-tax replaced with additional surcharge of 2 per cent on super rich with a taxable income of over Rs.1 crore annually (as mentioned in the above table);
- Threshold for Domestic TP increased from Rs. 5 Crores to Rs. 20 Crores;
- Yoga included in charitable activity list U/s 2(15), as a special category of activity to be considered as charitable purpose on the lines of education;
- An additional investment allowance (@15%) and additional depreciation @35%) to new manufacturing units u/s 32AD set-up during the period 01.04.2015 to 31.03.2020 in notified areas of Andhra Pradesh and Telangana. This deduction shall be available over and above the existing deduction available u/s 32AC;
- Additional Depreciation is available for remaining 50% assets used for the purpose of business for less than 180 days in the year of acquisition and installation;
- Implementation of General Anti Avoidance Rules (GAAR) to be deferred by 2 years. Will apply prospectively on investment from April 2017;
- Transport Allowance increased to Rs. 1600 p.m. from Rs. 800/-;
- 100% deduction under section 80G of the Income-tax Act for the donations (other than the CSR contributions) made to Swachh Bharat Kosh (by both resident and non-resident) and Clean Ganga Fund (by resident);
- Donation made to National Fund for Control of Drug Abuse (NFCDA) to be eligible for 100% deduction u/s 80G of Income-tax Act;

- Acceptance or re-payment of advance in cash of Rs. 20,000 or more for any transaction in immovable property covered under Section 269SS and 269T of the Income Tax Act, 1961;
- Opening date of foreign bank account to be specified in assessee's income tax return;
- Income from undisclosed foreign assets to be taxed at maximum marginal rate;
- Deduction u/s 80D for health insurance premium increased from Rs 15,000 to Rs 25,000. For Senior Citizens the limit increased to Rs. 30,000 from Rs. 20,000/-;
- For very senior citizens of the age of 80 years or more, who are not covered by health insurance, deduction of Rs.30,000 towards expenditure incurred on their treatment will be allowed;
- Limit of deduction u/s 80DD of the Income-tax Act from Rs.50, 000 to Rs.75, 000 and from Rs.1 lakh to Rs.1.25 lakh in case of severe disability;
- Deduction u/s 80DDB is available to very senior citizen (80 years or more) of Rs. 80,000/-;
- Deduction u/s 80CCC of the Income-tax Act on account of contribution to a pension fund of LIC or IRDA approved insurer from Rs.1 lakh to Rs.1.5 lakh;
- Deduction of Rs. 50,000/- available u/s 80CCD (1B) in addition to deduction u/s 80CCD (1);
- Deduction u/s 80JJAA is available a 'person' deriving profits from manufacture of goods in a factory and paying wages to new regular workmen. The eligibility threshold of minimum 100 workmen is proposed to be reduced to fifty";
- The benefit of concessional rate of tax 15% u/s 111A is available to sponsor or transferor of units of business trust.

II. **Minimum Alternative Tax:**

The following amounts are **added** to the Net Profit as per Profit and Loss Account:

1. The amount or amounts of expenditure relatable to, income, being share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86;
2. The amount or amounts of expenditure relatable to income from capital gains arising on transactions in securities (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable), accruing or arising to an assessee being a Foreign

Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

The following amounts are **reduced** from the net profit as per profit and loss account:

1. The amount of income, being the share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86, if any such amount is credited to the profit and loss account;
2. The amount of income from capital gains arising on transactions in securities (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable), accruing or arising to an assessee being a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992, if any such amount is credited to the profit and loss account.

III. Tax Deducted At Source:

The Finance Bill proposes to amend section 192 of the IT Act to provide that for purposes of estimating income of the employee for deduction of tax thereunder, the employer will obtain from the employee evidence of the prescribed claims (including claim of set off loss) under the Act in the form and manner prescribed. Such amendment is proposed to take effect from June 1, 2015.

1. A new provision of the Act has been inserted for deduction of tax at the rate of 10% on premature taxable withdrawal from Employees Provident Fund Scheme, 1952 ("EPFS"). Such provision casts an obligation on the trustee of the EPFS to deduct tax at source. However, to reduce the compliance burden of employees having taxable income below the taxable limit, it is proposed to provide a threshold limit of payment of INR 30,000 for such provision to apply;
2. In case of employees paying tax at higher slab rates of 10%, the shortfall in the actual tax liability vis-à-vis TDS will be required to be paid by the employee through advance tax/ self-assessment tax;
3. It is also proposed that in case of non-furnishing of PAN by employees to the trustee of the EPFS, tax would be deductible at the maximum marginal rate. Such amendments are proposed to take effect from June 1, 2015;

4. Section 194C of the Act exempts payments made to contractors during the course of plying, hiring and leasing goods carriage if the contractor furnishes his PAN. It is proposed to restrict such exemption to cases where such contractor owns ten or less goods carriages at any time during the previous year and furnishes a declaration to such effect, alongside PAN. Such amendment is proposed to come in effect from June 1, 2015;
5. Currently, section 195(6) of the Act provides that any person responsible for making payments to a non-resident of any sum chargeable under the IT Act will provide such information as may be prescribed. Pursuant to such provision form 15CA and 15CB are required to be furnished by payers;
6. Such reporting requirements are now proposed to be extended even in respect of payments, which in the opinion of the payer are not chargeable to tax under the IT Act. Further, currently there is no penalty prescribed for non-furnishing of information or furnishing of incorrect information under section 195(6) of the IT Act (i.e. form 15CA and form 15CB). It is now proposed to provide a penalty of one lakh rupees in case of non-furnishing of information or furnishing of incorrect information under section 195(6) (i.e. form 15CA and form 15CB) of the Act. Such amendments are proposed to take effect from June 1, 2015;
7. Sec.200A provides for processing of TDS statements for determining the amount payable or refundable to the deductor;
8. In order to improve compliance with furnishing TDS and discourage delays, the Finance Act, 2012 inserted Sec. 234E whereby fee was levied for late furnishing of TDS statement;
9. The existing provision of Sec.200A does not provide mechanism for determination of late fee under Sec. 234E at the time of processing of TDS statements. It is, therefore, proposed to amend the provisions of Section 200A of the Act so as to enable computation of fee payable under section 234E of the Act at the time of processing of TDS statement under section 200A of the Act;
10. The Finance Bill, 2015 proposes to insert section 206CB for processing of tax collection at source statements including correction statements akin to processing of TDS returns as contained in section 200A;

11. The Finance Bill, 2015 proposes for processing of statements of tax collection at source including correction statements furnished under section 206C;
12. The proposed section 206CB provides for correction of any arithmetical error and incorrect claims apparent from any information in the statement furnished at the time of processing the same. Interest under section 206C(7) shall be levied at 1% for every month or part of a month shall be computed on the basis of the sums collectible;
13. Sub-section (2C) to section 220 which is proposed to be inserted bars levy of interest under section 220(2) if the interest has already been charged for the same period on the same amount under section 206C(7) when the intimation is issued under the proposed section 206CB;
14. Evasion of tax in relation to foreign assets to have a punishment of rigorous imprisonment upto 10 years, be non-compoundable, have a penalty rate of 300% and the offender will not be permitted to approach the Settlement Commission;
15. Non-filing of return/filing of return with inadequate disclosures to have a punishment of rigorous imprisonment up to 7 years.

Direct Tax Code:

Most provisions of Direct Taxes Code have already been included in the Income-tax Act; therefore, Government has expressed its resolve of not going ahead with the DTC.

(This article is contributed by Ram Prasad, Partner at SBS and Company LLP, Chartered Accountants. The author can be reached at caram@sbsandco.com)

INDIRECT TAXES:

CENTRAL EXCISE - KEY PROPOSALS

Contributed by CA Praveenkumar

This part of the budget edition contains the changes pertaining to the Central Excise. We have summarized the important budget provisions here by for the general knowledge of the Indirect Tax provisions. It is recommended to go through the detailed provisions/ Notifications in this regard to have clarity on the aspects involved.

Central Excise Non-Tariff Notifications:**I. Changes to MRP based assessment - New Products Added:**

Certain goods are valued on the basis of MRP. The said goods are listed vide Notification 49/2008 – CX (NT) dated 24.12.2008. Few more additions were made to the existing as below, which are effective from 01.03.2015:

S. No	Insertion series	Tariff	Product	Abatement
1	1A	0402 91 10 0402 99 20	Condensed milk put up in unit containers	30
2	16A	2010 20	Concentrates of Tea or mate and preparations...extracts, essences...	30
3	25A	2202	All goods except mineral waters and aerated waters	35
4	56	64	Replacement to Existing Tariff rates	25
5	121 to 124	2202 90 10 to 90	Entire abatement deleted (beverages, spirits & vinegar	

II. Changes to Capacity Determination & Collection of Duty Rules, 2010:

Valuation rules were amended towards Factors relevant for production, mention towards retail sale price.

III. Changes to Cenvat credit Rules, 2004:

1. Rule 4(1) – Timing of Cenvat Credit on Inputs:

Earlier to avail the cenvat credit on inputs, such inputs have to be received in the factory mandatorily. However, the cenvat credit in respect of inputs sent to job-worker directly, the availment of credit was subjected to ambiguity. The proposed change has removed such ambiguity since the manufacturer or service provider can avail credit if the goods are sent directly to the job-worker premises with such instructions.

2. Rule 4(1) – 3rd Proviso:

Time limit for availment of Cenvat Credit has been extended from 6 months to 1 Year with effective from 01.03.2015;

3. Rule 4(5) – Credit on Inputs and Capital Goods sent to Job-Worker(s):

- The provider of output service can take the credit of inputs sent to either single job worker or multiple job workers for the specified purposes subject to a condition that the said inputs are received within 180 days from the date of removal. The said goods can be directly sent to the premises of job worker without bringing such goods first to service provider, however the time limit of 180 days will start from the date of receipt of such goods by job worker. The time limit for capital goods has been extended to 2 years:
- The said credit shall be reversed if such goods are not received back within stipulated time and the same credit can be availed later when such goods are received.

4. Rule 4(7) – Credit on Input Services in case of RCM/PCM and Others:

- The cenvat credit can be availed immediately after payment of service tax to the credit of central government in case of reverse and partial charge mechanism. The availment of credit after making payment to the vendor has been dispensed.
- Further, the reversal of cenvat credit in cases where the payment is not made within 3 months from the date of invoice was made not applicable to cases where service tax is paid in the capacity of service receiver, that is to say the payment to the vendors who are subjected to reverse or partial charge mechanism within 180 days has been withdrawn.

5. Rule 5 – Refund of Cenvat Credit:

The phrase "export goods" has been inserted to mean any goods which are to be taken out of India to a place outside India.

6. Rule 6 – Obligation of Manufacturer/Service Provider:

Non Excisable goods cleared for a consideration from the factory have been added to the definition 'exempted goods'.

7. Rule 14 – Recovery of Cenvat Credit:

- Where Cenvat Credit **has been taken wrongly but not utilised**, the same shall be recovered in terms of Section 73 of Finance Act, 1994;
- Where Cenvat Credit **has been taken and utilised wrongly**, the same shall be recovered along with interest in terms of Section 75 of Finance Act, 1994;
- **Methodology for determining the credits:** All credits taken during the month shall be deemed to have been taken on the last day of the month. Utilisation is as under:
 - Opening Balance of the month has been utilised first;
 - Credit admissible during the month has been utilised next;
 - Credit inadmissible during the month has been utilised thereafter.

8. Rule 15 – Confiscation and Penalty:

- In cases where credit is taken wrongly or in contravention to any rules – the penalty shall be as specified in Section 76(1) of the Finance Act, 1994;
- In cases where credit is taken wrongly by reason of fraud, collusion, wilful mis-statement – penalty shall be as specified in Section 78(1) of Finance Act, 1994.

IV. Changes to Registration Procedure - Effective from 01.03.2015

Important changes brought in as below:

1. **Registration number & certificate:** post verification of the premise and documents by the authorized officers, registration application shall be approved by AC/DC within two days. RC shall be issued electronically and the same shall be adequate and no signature required on the same.
2. **Physical verification:** The authorized officer shall visit within seven days (working or non-working) from the date of receipt of application through online (No manual submission). If there is a defect in documentation or premise the same to be communicated within 15days from the date of application. Opportunity shall be given to the Assessee before rejection.

3. Transfer of Business or Acquisition of factory/Change in constitution: A fresh registration is sought in both of the above situations;
4. De-Registration shall be done online within 30 days of application where there are no dues pending for recovery from the Assessee;
5. Cancellation: A registration sanctioned under Rule 9 shall be cancelled after giving a reasonable opportunity to the Assessee to represent before DC/AC in any of the following situations:
 - where on verification , the premises proposed to be registered is found to be non-existent
 - where the assessee does not respond to request for rectification of error noticed during the verification of the premises within fifteen days of intimation
 - where there is substantial mis-declaration in the application form and
 - where the factory has closed and there are no dues pending against the assessee

V. Changes to Central Excise Rules - Effective from 01.03.2015:

1. Rule 8(4) - correction made towards penalty provision applicability to the self-assessment as per Rule 6 and corresponding duty disclosure.
2. Daily Stock Account - Maintenance of DSA in electronic form and every page of the record so preserved should be authenticated by means of a Digital signature.
3. **Rule 11:**
 - Reference to a job worker/a person where material are received on behalf of the manufacturer or service provider shall be specified under “Consignee column”. Further if material imported under the cover of a “Bill of Entry” are routed directly to the buyers premise, invoice issued by the importer shall mention that “goods are sent directly from the place or port of import to the buyer’s premises”.
 - New rules inserted as below:

“(8) An invoice issued under this rule by a manufacturer may be authenticated by means of a digital signature:
Provided that where the duplicate copy of the invoice meant for transporter is digitally signed, a hard copy of the duplicate copy of the invoice meant for

transporter and self-attested by the manufacturer shall be used for transport of goods.

(9) The Board may, by notification, specify the conditions, safeguards and procedure to be followed by an assessee using digitally signed invoice

Explanation. – For the purposes of rule 11 and this rule, the expressions, “authenticate”, “digital signature” and “electronic form” shall have the respective meanings as assigned to them in the Information Technology Act, 2000 (21 of 2000).

4. **Returns:** New penal provision brought in for delay in filing Annual Return as below:

(6) Where any return or Annual Financial Information Statement or Annual Installed Capacity Statement referred to in this rule is submitted by the assessee after due date as specified for every return or statements, the assessee shall pay to the credit of the Central Government, an amount calculated at the rate of one hundred rupees per day subject to a maximum of twenty thousand rupees for the period of delay in submission of each such return or statement.”

5. **Removal of goods by an EOU:** New penal provision applicable to a DTA is applicable as above in Point No. IV.

6. **Access to registered premise:** Importer has been added in addition to a First or Second Stage dealer.

VI. Changes in Removal of goods at Concessional Rate - Effective from 01.03.2015:

“Provided that it shall be sufficient to provide a letter of undertaking by a manufacturer against whom no show cause notice has been issued under sub-sections (4) or (5) of section 11A of Central Excise Act, 1944 or where no action is proposed under any notification issued in pursuance of rule 12CCC of Central Excise Rules, 2002 or rule 12AAA of CENVAT Credit Rules, 2004.”

VII. 11/2015 – Definition provided

“Firm” shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932 (9 of 1932), and includes-

1. the limited liability partnership as defined in clause (n) of sub-section (1) of the section 2 of the Limited Liability Partnership Act, 2008 (6 of 2009); or

2. Limited liability partnership which has no company as its partner; or
3. The sole proprietorship; or
4. One Person Company

Central Excise Tariff Notifications:

1. **12/2015 – Change in Rate of Duty effective from 01.03.2015:** Most of the items & corresponding conditions have been amended vide above notification which shall be effective till 31.03.2016;
2. 14/2015 – Education Cess exemption from 01.03.2015;
3. 15/2015 – Secondary Higher Education Cess exemption from 01.03.2015.

(This article is contributed by CA Praveen kumar, Associate at SBS and Company LLP, Chartered Accountants. The author can be reached at praveen@sbsandco.com)

BUDGET AMENDMENTS FOR FY 15-16 PERTAINING TO SERVICE TAX

Contributed by CA Sri Harsha

I. Changes in the Negative List:

The activities specified in the Section 66D of the Finance Act, 1994 does not attract service tax. Such list of activities are referred to Negative List by the trade and profession. The Finance Bill, 2015 has proposed certain changes to such list of services to reduce the scope of the negative list and to accommodate certain more services to the tax base. The changes are summarised hereunder:

1. Services provided by the Government or a local authority:**Existing:**

- Services provided by the Government or local authority except certain services are covered under the ambit of the negative list. The list of such services which were not under the ambit of negative list are services provided by department of posts, services in relation to an aircraft or a vessel, transport of goods or passengers and support services provided to business entities.

Proposed:

- The support services provided by Government or local authority to business entities were taxable. However, the phrase 'support services' has been replaced by 'any services'.

Effect:

- From the above amendment, all services provided by Government and local authority to business entities are taxable. Earlier the phrase 'support services' was defined and hence the scope of taxable services was restricted only when such services fit into the definition of 'support services'. With this amendment, any services provided to business entities are taxable and no requirement to satisfy the definition of 'support services'.

With Effective From:

- Such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Any process amounting to manufacture or production of goods:

Existing:

- The processes amounting to manufacture or production of goods are covered under the negative list since the said activity falls under the ambit of Central Excise Act, 1944. The phrase 'process amounting to manufacture or production of goods' covers activities in relation to manufacture of alcohol liquor for human consumption.

Proposed:

- It is proposed to amend the definition of the 'process amounting to manufacture or production of goods' to drop the phrase 'alcoholic liquors for human consumption' and also exclude the process of manufacturing of alcoholic liquor from the ambit of negative list. Further, the exemption in relation to the carrying out an intermediate production process as job work vide Entry 30(c) of Notification No 25/2012-ST dated 20.06.2012 has been amended to exclude such process from the ambit of exemption.

Effect:

- Hence, with the proposed amendment, the services provided in relation to contract manufacturing/job work for production of potable liquor for a consideration are taxable.

With Effective From:

- Such date as the Central Government may, by notification in the Official Gazette, appoint.

3. Betting, Gambling and Lottery:

- The scope of services pertaining to betting, gambling and lottery is reduced by way of insertion of explanation stating that services specified in Explanation 2 to Section 65B(44) are not to be included. Hence, the scope of this negative list entry is further reduced.

4. Services of admission to entertainment events or access to amusement facilities:

- The services in relation to admission to entertainment events or access to amusement facilities were covered under the negative list. However, the said services are now withdrawn from the negative list and consequently attracts obligation under service tax.

- However, there is an exemption provided to the following events:
 - Exhibition of cinematographic film, circus, dance or theatrical performance including drama or ballet;
 - Recognised sporting event;
 - Award function concert, pageant, musical performance or any sporting event other than a recognised sporting event, where the consideration for admission is not more than Rs 500 per person

II. Changes in the Mega Exemption Notification:

The exemptions to certain activities are governed by the Notification No 25/2012-ST dated 20.06.2012 which is colloquially referred to Mega Exemption Notification. Certain changes to such exemption notification are proposed vide Notification No 6/2015-ST dated 01.03.2015. Some of the changes are covered under the above paragraphs. The balance changes are summarised hereunder:

1. Exemptions Withdrawn:

Entry 12:

- Services provided to government, governmental authority or local authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of certain activities are exempted vide Entry 12 of Notification No 25/2012-ST dated 20.06.2012.
- However, with effective from 01.04.2015, the scope of such exemption entry is reduced by omitting the following services, accordingly services shall become taxable:
 - a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
 - a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;
 - a residential complex meant predominantly for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65 B of the said Act.

Entry 14:

- Services provided by way of construction, erection, commissioning, or installation of original works pertaining to an airport, port or railways, including monorail or metro were exempted vide Entry 14 (a) of Notification No 25/2012-ST dated 20.06.2012;
- However, with effective from 01.04.2015 the services provided by way of construction, erection, commissioning, or installation of original works in relation to port or airport are taxable since the exemption entry has omitted such words.

Entry 16:

- Services by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, excluding services provided by such artist as a brand ambassador were exempted vide the said entry;
- However, with effective from 01.04.2015, if the consideration charged for such performance is more than one lakh, the exemption shall not be applicable and accordingly taxable.

Entry 20:

- Services by way of transportation by rail or a vessel from one place in India to another of the following goods namely foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages were exempted;
- However, with effective from 01.04.2015, such entry is replaced with 'milk, salt and food grain including flours, pulses and rice'. Hence, it is evident that the scope of the entry has been substantially reduced and accordingly all transportation services other than proposed shall be taxable.

Entry 21:

- Services by way of a goods transport agency, by way of transport in a goods carriage of following goods namely foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages were exempted.
- However, with effective from 01.04.2015, such entry is replaced with 'milk, salt and food grain including flours, pulses and rice'. Hence, it is evident that the scope of the entry

has been substantially reduced and accordingly all transportation services other than proposed shall be taxable.

Entry 29:

- Services provided by the following persons in respective capacities were exempted:
 - mutual fund agent to a mutual fund or asset management company;
 - distributor to a mutual fund or asset management company;
 - selling or marketing agent of lottery tickets to a distributor or a selling agent
- However, with effective from 01.04.2015, the above are withdrawn from such entry making them taxable.

Entry 32:

- Services by way of making telephone calls from specified list were exempted hitherto. The said exemption is withdrawn.

2. Exemptions Added:

- As of now, services provided by way of transportation of patient in ambulance to and from clinical establishment are only covered. Now, all services provided by ambulance in relation to transportation of a patient irrespective of to and from are covered under the exemption entry;
- Varishtha Pension Bima Yojana has been added to the list of insurance services which are exempted vide Entry 26A of Notification No 25/2012-ST dated 20.06.2012;
- Services by operator of Common Effluent Treatment Plant by way of treatment of effluent are exempted with effective from 01.04.2015;
- Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables are exempted with effective from 01.04.2015;
- Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo are exempted with effective from 01.04.2015;

- Service provided by way of exhibition of movie by an exhibitor to the distributor or an association of persons consisting of the exhibitor as one of its members are exempted with effective from 01.04.2015.

III. Changes in the Valuation - Section 67:

The scope of 'consideration' has been expanded to include the following:

1. Reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances and conditions as may be prescribe – ***This amendment is to overcome the decision of the Delhi High Court in case of Intercontinental, where in it was held that Rule 5 is ultra vires.***
2. Any amount retained by the lottery distributor or selling agent from gross sale amount of lottery ticket or the discount received (FV of lottery ticket – Price at which such distributor or agent gets such ticket).

IV. Changes in Section 73 – Recovery of Service Tax:

1. A new sub-section (1B) has been introduced to state that where the amount of service tax payable has been self-assessed in the service tax returns and not paid either in full or in part, the same shall be recovered along with interest in the modes specified vide Section 87 and without service of notice under Section 73(1).
2. Sub-section (4A) has been omitted and hence there shall be no benefit of reduced penalty if true and complete details were available in the specified records. However, the above change is not harmful since the penalty provisions are streamlined as detailed below.

V. Changes in Section 76 – Penalty:

Section 76 is being amended to rationalize the provisions relating to penalties, in cases not involving fraud or collusion or wilful misstatement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of Service Tax, in the following manner,-

1. penalty not to exceed ten per cent of Service Tax amount involved in such cases;

2. no penalty is to be paid if Service Tax and interest is paid within 30 days of issuance of notice under section 73 (1);
3. a reduced penalty equal to 25% of the penalty imposed by the Central Excise officer by way of an order is to be paid if the Service Tax, interest and reduced penalty is paid within 30 days of such order; and
4. If the Service Tax amount gets reduced in any appellate proceeding, then the penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25% of penalty imposed) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.

VI. Changes in Section 78 – Penalty:

Section 78 is being amended to rationalize penalty, in cases involving fraud or collusion or wilful mis-statement of suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of Service Tax, in the following manner:

1. penalty shall be hundred per cent of Service Tax amount involved in such cases;
2. a reduced penalty equal to 15% of the Service Tax amount is to be paid if Service Tax, interest and reduced penalty is paid within 30 days of service of notice in this regard;
3. a reduced penalty equal to 25% of the Service Tax amount, determined by the Central Excise officer by an order, is to be paid if the Service Tax, interest and reduced penalty is paid within 30 days of such order; and
4. If the Service Tax amount gets reduced in any appellate proceeding, then the penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25%) shall be admissible if Service Tax, interest and reduced penalty is paid within 30 days of such appellate order.

VII. Changes in Notification No. 26/2012-ST dated 20.06.2012 – Abatements:

Notification No 26/2012-ST dated 20.06.2012 deals with abatement granted for certain specified services subject to certain conditions. The Finance Bill has proposed certain changes vide Notification No. 08/2015-ST dated 01.03.2015. All the changes are effective from 01.04.2015:

1. **For Transportation of Goods by Rail:** The condition of non-availment of cenvat credit of input, input services and capital goods has been specified for availing the abatement. Hitherto, there was no condition for availing such abatement.
2. **For Transportation of Passengers by Rail:** The condition of non-availment of cenvat credit of input, input services and capital goods has been specified for availing the abatement. Hitherto, there was no condition for availing such abatement.
3. **For Transportation of Passengers by Air:** The taxable portion is 60% for other than economy class and the taxable portion is retained at 40% for economy class.
4. **For Transportation of Goods by Road:** The taxable portion has been increased to 30% from 25%.
5. **For services provided in relation to Chit:** The abatement has been withdrawn and accordingly full value becomes taxable.
6. **For Transport of Goods by Vessel:** The taxable portion has been reduced from 40% to 30%.

VIII. Changes in Service Tax Rules, 1994:

The Service Tax Rules, 1994 provides for various procedural matters relating to person responsible for payment of service tax, the point of time for payment of service tax, method of remittance and various other issues. The Finance Bill proposes to carry certain amendments vide Notification No. 5/2015-ST dated 01.03.2015 which are summarised as below. Unless otherwise specified the changes come into force with effective from 01.03.2015:

1. The phrase 'aggregator' has been defined to means a person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator.
2. Further, the person providing such service is responsible for payment of service tax. Provided if the aggregator does not have physical presence in taxable territory, any person representing such aggregator shall be responsible for payment of service tax. If such representative is not

- available, the aggregator shall appoint a person and such person shall be responsible for payment of service tax.
3. in relation to service provided or agreed to be provided by a mutual fund agent or distributor to a mutual fund or asset management company – the person responsible for payment of service tax has been made as the recipient of the service;
 4. In relation to service provided or agreed to be provided by a selling or marketing agent of lottery tickets to a lottery distributor or selling agent– the person responsible for payment of service tax has been made as the recipient of the service.
 5. Rule 4(1A) has been omitted which stated that Central Excise Officer may specify the documents which are to be submitted along with application for registration. Sub-Rule (9) has been introduced which specifies procedure to be followed for grant of registration. Order No 01/2015-ST dated 28.02.2015 has been issued specifying the new procedure for registration which is as under:
 6. Application has to be made online at www.aces.gov.in;
 7. ST-2 shall be granted within 2 days based on trust;
 8. Documents have to be posted within 7 days to Superintendent;
 9. Premises visit only on necessity if approved by Additional/Joint Commissioner;
 10. ST-2 may be revoked Deputy/Assistant Commissioner after opportunity of being heard is granted;
 11. No Signed Copy of ST-2 is required – Download from ACES would suffice;
 12. Rule 6(6A) has been withdrawn since consequent change has been made to Section 73 for enabling recovery of service tax vide Section 87 in case where service tax is disclosed in the returns and not being paid.

IX. Changes in Cenvat Credit Rules as applicable to Service Tax:

1. Rule 4 – 3rd Proviso – Time limit for availment of Cenvat Credit:

Time limit for availment of Cenvat Credit has been extended from 6 months to 1 Year with effective from 01.03.2015;

2. Rule 4(5) – Credit on Inputs and Capital Goods sent to Job-Worker(s):

- The provider of output service can take the credit of inputs sent to either single job worker or multiple job workers for the specified purposes subject to a condition that the said inputs are received within 180 days from the date of removal. The said goods can be directly sent to the premises of job worker without bringing such goods first to service provider, however the time limit of 180 days will start from the date of receipt of such goods by job worker. The time limit for capital goods has been extended to 2 years;
- The said credit shall be reversed if such goods are not received back within stipulated time and the same credit can be availed later when such goods are received.

3. Rule 4(7) – Credit on Input Services in case of RCM/PCM and Others:

- The cenvat credit can be availed immediately after payment of service tax to the credit of central government in case of reverse and partial charge mechanism. The availment of credit after making payment to the vendor has been dispensed;
- Further, the reversal of cenvat credit in cases where the payment is not made within 3 months from the date of invoice was made not applicable to cases where service tax is paid in the capacity of service receiver, that is to say the payment to the vendors who are subjected to reverse or partial charge mechanism within 180 days has been withdrawn.

4. Rule 14 – Recovery of Cenvat Credit:

- Where Cenvat Credit **has been taken wrongly but not utilised**, the same shall be recovered in terms of Section 73 of Finance Act, 1994;
- Where Cenvat Credit **has been taken and utilised wrongly**, the same shall be recovered along with interest in terms of Section 75 of Finance Act, 1994;

- **Methodology for determining the credits:** All credits taken during the month shall be deemed to have been taken on the last day of the month. Utilisation is as under:
 - Opening Balance of the month has been utilised first;
 - Credit admissible during the month has been utilised next;
 - Credit inadmissible during the month has been utilised thereafter.

5. Rule 15 – Confiscation and Penalty:

- In cases where credit is taken wrongly or in contravention to any rules – the penalty shall be as specified in Section 76(1) of the Finance Act, 1994;
- In cases where credit is taken wrongly by reason of fraud, collusion, wilful mis-statement – penalty shall be as specified in Section 78(1) of Finance Act, 1994.

X.Changes in the Notification No 30/2012-ST dated 20.06.2012- Reverse or Partial Charge Mechanism:

The notification prescribes the percentage of service tax payable by the service provider and service receiver for certain specified services which is colloquially referred as reverse or partial charge mechanism. The Finance Bill proposes to make certain amendments vide Notification No 07/2015-ST dated 01.03.2015 which are summarised as under:

1. In relation to services provided by a mutual fund agent or a distributor to a mutual fund or asset management company – the service receiver has to pay 100% of service tax - With effective from 01.04.2015;
2. In relation to services provided by selling or marketing agent of lottery tickets to lottery distributor or selling agent – the service receiver has to pay 100% of service tax - With effective from 01.04.2015;
3. In relation to manpower supply services – the service receiver has to be pay service tax at 100% instead of erstwhile 75% - with effective from 01.04.2015;
4. In relation to services provided by aggregator in any manner – the receiver of service has to pay 100% - With effective from 01.03.2015. In case of provision of aggregator services using

brand or trade name – the person providing such service shall be responsible for payment of service tax.

XI. Miscellaneous Changes:

1. The services provided by commission agent located outside India for exporter in India were exempted vide Notification No 42/2012-ST dated 29.06.2012 has been rescinded since such services shall be exempted vide Rule 9 of POP Rules, 2012.
2. Services provided by GTA from any container freight station or ICD to the port, airport were exempted vide Notification No 31/2012-ST dated 20.06.2012. The said exemption has been now extended to transportation services incurred for transportation of goods to Land Customs Station.
3. The provisions of advance ruling were made applicable to 'resident firm'. The phrase 'resident firm' covers:
 - Firm as defined in Section 4 of Indian Partnership Act, 1932;
 - LLP as defined in Section 2(1)(n) of LLP Act, 2008;
 - LLP which has no company as its partner;
 - Sole Proprietorship;
 - One Person Company as defined in Section 2(62) of Companies Act, 2013.

Table A: Changes – With effective from 01.03.2015

S. No	Changes	With Effective From
1	Aggregator – Reverse Charge	01.03.2015
2	Amendment in Registration Procedure	01.03.2015
3	Authentication of Invoices – Digital Signature	01.03.2015
4	Extension of time limit for availment of Cenvat	01.03.2015
5	Rescinding of Notification 42/2012 – Commission Agent	01.03.2015
6	Advance Ruling to Firm, LLP, OPC and Proprietor	01.03.2015

Table B: Changes – With effective from 01.04.2015

S. No	Changes	With Effective From
1	Changes to all exemptions – except specified in Table D	01.04.2015
2	Changes to abatement Rates – 26/2012	01.04.2015
3	Reverse Charge – Manpower Supply , Mutual Fund, Lottery Agent	01.04.2015
4	Amendment in availment of Cenvat in case of RCM	01.04.2015
5	Exemption to GTA services to Land Customs Station	01.04.2015

Table C: Changes – With effective from Enactment of Finance Bill, 2015

S. No	Changes	With Effective From
1	Definition of ‘Government’	From Enactment of FB
2	Definition of ‘Service’ – Explanation	From Enactment of FB
3	Fine tuning of Section 66F – Interpretation of Statutes	From Enactment of FB
4	Definition of ‘Consideration’ – Section 67	From Enactment of FB
5	Amendments in 73, 76 and 78 – Recovery & Penalties	From Enactment of FB
6	Omission of Section 80 – Penalty Waiver	From Enactment of FB
7	Change in Appellate Tribunal Procedures – Rebate	From Enactment of FB
8	Changes in Settlement Commission	From Enactment of FB
9	Omission of Rule 6(6A) of STR, 1994 – Recovery in terms of 87	From Enactment of FB

Table D: Changes – With effective from date to be notified after Enactment of Finance Bill

S. No	Changes	With Effective From
1	Service Tax Rate from 12.36% to 14%	Date to be notified
2	Swachh Bharath Cess	Date to be notified
3	66D – Changes in the negative list	Date to be notified
4	Entry 30 of 25/2012-ST – Job Work – Alcohol	Date to be notified
5	Admission Charges < 500/- - Exemption	Date to be notified
6	Changes in Rates – Travel, Insurance, Money Changer & Lottery	Date to be notified

(This article is contributed by Sri Harsha, Partner at SBS and Company LLP, Chartered Accountants. The author can be reached at harsha@sbsandco.com)

FEMA & PMLA

KEY PROPOSALS

Contributed by CA Murali Krishna

Foreign Exchange and Anti Money Laundering Laws:

As a departure from the traditional way of amending the laws, for the first time, the Central Government has adopted the approach of amending the Foreign Exchange Laws and Anti Money Laundering Laws via Finance Act. The Central Government vide its Finance Bill, 2015 (Bill No. 26 of 2015), has proposed to amend the Foreign Exchange Management Act, 1999 (vide Part VI of Finance Bill) and Prevention of Money Laundering Act, 2002 (vide Part VII of Finance Bill). The proposed changes are intended to address the issues related to arresting of the menace of Black Money involved in the International Trade and other related business transactions as well as confiscating the assets of the person involved in such black money transactions.

Also the FEMA is proposed to be amended for taking away the powers of Reserve Bank of India, to make regulations for the matters listed under Section 6 of FEMA, 1999 (Capital Account Transactions), except the Debt Instruments to be defined by way of relevant rules and regulations. Presently the matters related to Current Account Transactions are regulated by the Central Government. Henceforth both Current Account Transactions and Capital Account Transactions (except debt instruments) would be regulated by the Central Government.

There are some very important policy amendments which have been brought about by the amendments which are discussed below:

I. Foreign Exchange Management Act, 1999

1. Definitions of “authorised officer” and “competent authority” would be inserted in Section 2 of FEMA, 1999;
2. Present provisions of Section 6 (2) (a) would be substituted so as to permit RBI to make regulations for Debt Instruments and suitable clause 6(2)(c) would be inserted to permit conditions to be prescribed by RBI for such debt instruments;
3. A new subsection 2A would be inserted to give power to Central Government for making rules related to Capital Account Transactions. Presently such Capital Account Transactions broadly cover the following:

- Foreign Direct Investment;
 - Overseas Direct Investment;
 - Establishment of Branch Office, Liaison Office or Project Office in India by a foreign entity;
 - External Commercial Borrowings by a person resident in India;
 - Lending or Borrowing in Indian Rupees between Resident and Non-Residents;
 - Types of Deposits/ bank accounts that can be opened by a Non-Resident with Authorised Dealers in India;
 - Types of Deposits/ bank accounts that can be opened by a Resident with Authorised Dealers in India as well as banks outside India;
 - Restrictions on import and export of foreign currency and Indian Currency (notes and coins);
 - Acquisition and Transfer of Immovable Properties in India by Non Residents ;
 - Acquisition and Transfer of Immovable Properties outside India by Indian Residents;
 - Providing Guarantees between residents and Non Residents;
 - Insurance products between residents and Non Residents;
 - Manner of Receipt and Payments between residents and Non Residents;
 - Export of Goods and Services by a resident in India;
 - Foreign Exchange Derivative Contracts.
4. A new Section 37A is proposed to be inserted to give powers to the Authorised Officers of the Central Government (Enforcement Directorate) based on reasonable belief that there is a contravention of provisions of FEMA, to confiscate the equivalent value of assets located in India of the Person, involved in Black Money Transactions, based on the value of assets located outside India. While doing so the authorised officer has to take approval from Competent Authority (not below the rank of Joint Secretary to the Central Government);
5. A new subsection 3 in Section 47 is proposed to be inserted to give transitional provision for existing regulations made by RBI for the capital account transactions (detailed herein above), until and otherwise the existing regulations are amended or rescinded by the Central Government;
6. All the above provisions would be made applicable after the Finance Bill becomes Act, as per the procedure laid down in the Constitution of India and a suitable notification is issued in this respect.

II. Prevention of Money Laundering Act, 2002

1. Section 2 (u) dealing with Proceeds of Crime has is proposed to be amended to insert the words “or where such property is taken or held outside the country, then the property equivalent in value held within the country”. Due to such amendment the Enforcement Directorate or authorised officer can seize the properties in India of the person involved in Money Laundering, even though the crime proceeds are lying as a foreign asset/ security;
2. Section 2 (y) dealing with the Scheduled Offence is proposed to be amended to insert Part B in Schedule to the Act, and also to prescribe the threshold amount of Rs. 10 Million (1 Crore);
3. In Part B of Schedule Offences the reference to Section 132 of Customs Act, 1962 has been inserted whereby any activity of submitting False Declaration and False documents for import or export of goods and services is considered to be Money Laundering Activity.

(This article is contributed by CA Murali Krishna G, Partner at SBS and Company LLP, Chartered Accountants. The author can be reached at gmk@sbsandco.com)

BUDGET SESSION - CONDUCTED BY SBS AND COMPANY LLP & BIGSUN GROUP

Date : 18th March 2015

Venue : BigStay - NH 5 - Near Sricity, TADA

Fee : No Delegate Fee

Topics : Read Below

S No.	Topic	Timing
1	Inaguration & Welcome Speech ; Mr. Jagadeesh (Bigsun Group CEO)	09:30 - 10:00
2	Budget Changes in Direct Taxes Including T P ; CA Ram Prasad, CA Mallikarjun Rao G & CA Mithilesh Sai	10:00 - 11:45
3	Tea Break	11:45 - 12:00
4	Budget Changes in Indirect Taxes-Service Tax ; CA Sri Harsha Vardhan K & CA Praveen Kumar G	12:00 - 13:00
5	Lunch Break	13:00 - 13:45
6	Technical Session on Labour Laws ; Mr. S V Ramachandra Rao (MD of Resource Inputs Ltd)	13:45 - 14:30
7	Budget Changes in Indirect Taxes - Central Excise ; CA Praveen Kumar G & CA Sri Harsha Vardhan K	14:30 - 15:30
8	Tea Break	15:30 - 15:45
9	Impact Analysis - Union & AP State Budget ; CA Murali Krishna G	15:45 - 16:45
10	Closing Remarks ; CA Suresh Babu S	16:45 - 17:00

© All Rights Reserved with SBS and Company LLP



Hyderabad: 6-3-900/6-9, #103 & 104, Veeru Castle, Durganagar Colony, Panjagutta, Hyderabad, Telangana

Kurnool: No. 302, 3rd Floor, V V Complex, 40/838, R.S. Road, Near SBI Main Branch, Kurnool, Andhra Pradesh

Nellore: 16-6-259, 1st Floor, Near Santi Sweets Opp: SBI ATM, Vijayamahala Centre, SPSR Nellore, Andhra Pradesh

Tada: 8-3-425/2, Flat No. 202, 2nd Floor, Bigsun Avenue, Near SRICITY, TADA, SPSR Nellore Dist, Andhra Pradesh

Visakhapatnam: # 39-20-40/6, Flat No.7, Sai Yasoda Apartments, Madhavadhara, Visakhapatnam (Urban), Vizag, Andhra Pradesh

Disclaimer:

The articles contained in SBS Wiki, are contributed by the respective resource persons and any opinion mentioned therein is his/their personal opinion. SBS Wiki is intended to be circulated among fellow professional and clients of the Firm, to provide general information on a particular subject or subjects and is not an exhaustive treatment of such subject(s). The information provided is not for solicitation of any kind of work and the Firm does not intend to advertise its services or solicit work through SBS Wiki. The information is not intended to be relied upon as the sole basis for any decision. Before making any decision or taking any action that might affect your personal finances or business, you should consult a qualified professional adviser.

SBS AND COMPANY LLP [Firm] does not endorse any of the content/opinion contained in any of the articles in SBS Wiki, and shall not be responsible for any loss whatsoever sustained by any person who relies on the same.

To unsubscribe, kindly drop us a mail at kr@sbsandco.com with subject 'unsubscribe'.