

# Union Budget 2017-18: Indirect Tax Highlights

February 1, 2017

## Key Takeaways-

### Service Tax

#### **Negative List (Section 66 D of the Finance Act, 1994)**

- Omission of "Services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption" from the negative list.

However, service tax exemption on such services is being continued by incorporating them in general exemption notification.

#### **Amendments in Mega Exemption Notification [25/2012-ST] [To be notified after President's Assent]**

- Services provided by Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force under the Group Insurance Schemes of the Central Government is exempted from service tax.
- Service tax in respect of the amount of viability gap funding (VGF) payable to the selected airline operator for the services of transport of passengers, embarking from or terminating in a Regional Connectivity Scheme (RCS) airport is exempted, for a period of one year from the date of commencement of operations of the Regional Connectivity Scheme (RCS).
- Amendment has been made to omit 'residential' word appearing in exemption provided to Post Graduate Management Programmes offered by IIMs.

#### **Other Legislative Provisions (Retrospective Amendments)**

- Service tax exempted on life insurance services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to

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members of the Army, Navy and Air Force under the Group Insurance Schemes of the Central Government, w.e.f. September 10, 2004, the date from when the services of life insurance became taxable.

- Benefit of the exemption notification No. 41/2016-ST, exempting one time upfront amount payable for grant of long-term lease of industrial plots by State Government industrial development corporations is being extended with effect from June 6, 2007, the date when the services of renting of immovable property became taxable.
- Rule 2 A of Service Tax (Determination of Value) Rules, 2006 is amended with retrospective effect from July 1, 2010. The value of service portion in execution of works contract involving transfer of goods and land or undivided share of land, shall not include value of property in such land or undivided share of land.

### **Rationalisation measure**

- Explanation-I (e) applicable to sub-rule 3 and 3A of Rule 6 of CENVAT Credit Rules, 2004 is amended to exclude banks and financial institutions including NBFCs engaged in providing services by way of extending deposits, loans or advances from its ambit.(effective from February 2, 2017)

### **Amendment of Rule 10 of CENVAT Credit Rules, 2004**

- Transfer of CENVAT Credit by the jurisdictional Dy./Assistant Commissioner of Central Excise, shall be allowed within 3 months from the date of receipt of application from the manufacturer or service provider, subject to the fulfillment of the conditions prescribed under Rule 10 (3) [new sub rule 4 is inserted].

### **Advance Ruling Changes**

- The definition of "Authority" in Clause (d) of section 96A is being amended to mean the Authority for Advance Ruling as constituted under section 28E of the Customs Act, 1962.
- Section 96B relating to vacancies not to invalidate proceedings is being omitted.
- Sub- Section (3) of Section 96C is amended so as to increase the application fee for seeking ruling from two thousand five hundred to rupees ten thousand.
- The existing time limit of ninety days to six months by which time the Authority shall pronounce its ruling

### **Other amendments [Repeal of Research and Development Cess Act]**

- Research and Development Cess Act, 1986 is proposed to be repealed.
- W.e.f. enactment of Finance Bill 2017, the exemption to taxable service involving import of technology from cess payable under Research and Development Cess Act, 1986, would not be available to taxable service on which research and Development Cess is not payable. Full service tax along with cesses (Swachh Bharat Cess and Krishi Kalyan Cess) would be applicable to such taxable service.

## **Central Excise**

### Non-tariff

#### **Amendments i.r.o. Authority of Advance Ruling**

- Definition of "authority" has been substituted to mean the Authority for Advance Ruling as constituted u/s 245-O of Income-tax Act, 1961.
- Application fee for seeking advance ruling has been increased from Rs 2500 to Rs 10,000 on the lines of Income-tax Act.
- Time limit of 6 months has been prescribed for the AAR to pronounce its ruling on the lines of Income-tax Act.
- Pending applications before the Authority for Advance Rulings (Central Excise, Customs and Service Tax) shall be transferred to the Authority constituted u/s 245-O of Income-tax Act from the stage at which such proceedings stand as on the date on which Finance Bill, 2017 receives the assent of the President.

#### **Amendments i.r.o. Settlement Commission**

- Any person other than an assessee, can make an application to the Settlement Commission in respect of a show cause notice issued to him in a case relating to the assessee which has been settled or is pending before the Settlement Commission and such notice is pending before an Adjudicating Authority.
- Sub-section (5A) to Section 32F of Central Excise Act has been inserted to enable the Settlement Commission to amend the order passed by it, to rectify any error apparent on the face of record.

#### **Amendments to Central Excise Rules**

- **Rule 21:** Principal Commissioner / Commissioner shall grant the remission of duty within 3 months from date of receipt of application. This period may be further extended by 6 months on sufficient cause being shown and reasons to be recorded in writing, by next level authority. [Notification No. 5/2017-CE (N.T.) dated February 2, 2017]

### **Amendments to CENVAT Credit Rules**

- Allows transfer of CENVAT credit within 3 months from date of receipt of application by the Dy. / Asst. Commissioner of Central Excise on shifting, sale, merger, etc. of the factory. Principal Commissioner may extend this period by 6 months on sufficient cause being shown. [Rule 10(4)]

### **Clarifications**

- No exemption shall apply to excisable goods produced or manufactured by an EOU and cleared to the DTA. However, non-applicability of exemption notification is not in respect of inputs procured by EOUs domestically and utilised for production of goods which are cleared by them to DTA.
- EOUs are eligible to import raw material at other concessional rate of BCD, CVD or SAD as the case may be.

### Tariff

- Basic Excise Duty (BED) on tobacco and tobacco products increased with immediate effect. Cigars and cheroots, cigarillos, cigarillos of tobacco substitutes, and other tobacco substitutes shall be dutiable at '12.5% or Rs. 4006 per thousand, whichever is higher'. Cigarettes of tobacco substitutes are dutiable at 'Rs. 4006 per thousand'.
- Additional Excise Duty on tobacco and tobacco products increased with immediate effect.
  - Non-filter & Filter Cigarettes of length < 65mm shall be dutiable at 'Rs. 311 per thousand';
  - Non-filter Cigarettes of length exceeding 65mm but not 70mm will be dutiable at 'Rs. 541 per thousand', while Filter Cigarettes of said length will be dutiable at 'Rs. 386 per thousand';
  - Filter Cigarettes of length exceeding 70mm but not exceeding 75mm shall also be dutiable at 'Rs. 541 per thousand', whereas other Cigarettes would be levied duty at 'Rs. 811 per thousand'.
  - Chewing tobacco, Jarda Scented tobacco and Pan Masala containing tobacco (Gutkha) will be dutiable at '12%'.
- Additional Excise Duty on Pan Masala increased to 9%, while that on Un-manufactured tobacco to 8.3%.
- Excise Duty of 12.5% (as against present tariff of 27%) retrospectively specified w.e.f. January 1, 2017 on motor vehicles for transport of more than 13 persons falling under tariff items 8702 90 21 to 8702 90 29 of the First Schedule to the Central Excise Tariff Act.

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- Nil Excise Duty on Miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, Finger Print Reader / Scanner or Iris Scanner and its parts and components for manufacture thereof shall also be subjected to 'Nil' Duty.
- 6% Excise Duty on all parts for manufacture of LED lights or fixtures, including LED lamps.
- Nil Excise Duty (subject to non-availment of CENVAT Credit) on Waste and scrap of precious metals / metals clad with precious metals arising in course of manufacture of goods, Strips, wires, sheets, plates and foils of silver; Articles of silver jewellery, other than those studded with diamond, ruby, emerald or sapphire; and Silver coin of purity 99.9% and above, bearing a brand name when manufactured from silver on which appropriate duty of customs or excise has been paid.
- 6% Duty on Solar tempered glass for use in solar photovoltaic cells / modules, solar power generating equipment or systems, flat plate solar collector, solar photovoltaic module and panel for water pumping and other applications, along with parts / raw materials for manufacture of solar tempered glass.

### **Others Amendments**

- Amends Form-2 under Pan Masala Packing Machines (Capacity Determination And Collection of Duty) Rules, 2008 as well as Chewing Tobacco and Unmanufactured Tobacco Packing Machines (Capacity Determination and Collection of Duty) Rules, 2010 to illustrate the breakup of duty payment for apportionment between various duties.
- R&D Cess has been repealed from April 1, 2017.

## **Customs**

### Non-Tariff

#### **Amendments in Customs Act, 1962**

- Defines 'beneficial owner' as any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported, accordingly amends existing definition of exporter in clause 20 and importer in clause 26 to include beneficial owner.
- Defines 'passenger name record information' to mean the records prepared by an operator of any aircraft or vessel or vehicle or his authorised agent for each journey booked by or on behalf of any passenger.

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- Defines Foreign Post Office and International Courier Terminal.
- Refund of duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made, where- (i) such excess payment is evident from the bill of entry in the case of self-assessed bill of entry or (ii) the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment shall instead of crediting to the Fund will be paid to the applicant, thus keeps it outside the scope of unjust enrichment.
- Prescribes mandate to file the bill of entry before the end of the next day following the day (excluding holidays) on which the vessel or aircraft or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing, also provides for imposition of such charges for late presentation of the bill of entry as may be prescribed.
- Provides the manner of payment of duty and interest thereon in the case of self-assessed bills of entry or, as the case may be, assessed, reassessed or provisionally assessed bills of entry where the importer fails to pay the import duty on the date of presentation of the bill of entry in the case of self-assessment; or (b) within one day (excluding holidays) from the date on which the bill of entry is returned to him by the proper officer for payment of duty in the case of assessment, reassessment or provisional assessment; or (c) in the case of deferred payment under the proviso to sub-section (1), from such due date as may be specified by rules made in this behalf.
- Extends storage facility under section 49 to imported goods entered for warehousing before their clearance or removal for a period not exceeding 30 days.
- Provides that any warehoused goods may be exported to a place outside India without payment of duty if a shipping bill or a bill of export or the form as prescribed under Section 84 has been presented in respect of such goods.
- Empowers the Board to make regulations to provide for the form and manner in which an entry may be made in respect of goods imported or to be exported by post.
- Similar Amendments like Excise has been made i.r.o. Advance Rulings and Settlement Commission.

## Tariff

### **Amendments not affecting rates of duty**

- Condition [No.40A 9S.No.357A) of Notification No.12/2012-Customs] is being amended so as to allow goods imported for petroleum / coal bed methane operations by availing exemption benefit (which are no longer required for the said purpose) to be disposed off on payment of applicable customs duties.

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- Substitute tariff items 3904 10 10 to 3904 22 90 with tariff items 3904 10 10 to 3904 22 00 in relation to the PVC Resin.
- Amends heading 9804 so as to extend the classification of personal imports by courier, sea, or land under this heading.

**Amendments affecting rates of duty**

**Amendments involving increase in duty rates coming into force w.e.f February 1, 2017 owing to a declaration under the Provisional Collection of Taxes Act, 1931**

- Basic Customs Duty (BCD) on Cashew nut, roasted, salted or roasted and salted increased from 30% to 45%.
- Export Duty on Other aluminium ores and concentrates prescribed at 30% (Earlier Nil)
- BCD on Reverse Osmosis (RO) membrane element for household type filters increased from 7.5% to 10%.

**Other Proposals:**

- BCD on Liquefied Natural Gas reduced from 5% to 2.5%.
- BCD reduced from 5% to Nil on solar tempered glass or solar tempered (anti-reflective coated) glass for manufacture of Solar cells/panels/modules.
- Concessional BCD prescribed on all parts for use in the manufacture of LED lights / fixtures including LED Lamps (subject to actual user condition).
- Concessional BCD prescribed on imports of inputs for use in the manufacture of LED (Light Emitting Diode) driver or MCPCB (Metal Core Printed Circuit Board) for LED lights and fixtures or LED Lamps (subject to actual user condition).
- BCD reduced from 10%/7.5% to 5% on all items of machinery, including, instruments, apparatus and appliances, transmission equipment and auxiliary equipment (including those required for testing and quality control) and components, required for initial setting up of fuel cell based system for generation of power or for demonstration purposes.
- BCD reduced from 10%/7.5% to 5% on all items of machinery, including, instruments, apparatus and appliances, transmission equipment and auxiliary equipment (including those required for testing and quality control) and components, required for balance of systems operating on biogas or bio-methane or byproduct hydrogen.
- 2% concessional SAD prescribed on populated PCBs for use in manufacture of mobile phones and will be valid till June 30,2017.

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- 10% concessional BCD prescribed on Co-polymer coated MS tape/stainless steel tape for manufacture of telecommunication grade optical fibres or optical fibre cables.
- Exemption limit for duty free imports of Buckles; 'D' rings; eyes; rivets; studs; etc. imported by manufacturer of leather footwear / synthetic footwear / other leather products for exports increased from 3% to 5% of the FOB value of goods exported during the preceding financial year.
- BCD on Hot Rolled Coils for use in the manufacture of welded tubes and pipes reduced from 12.5% to 10%.

### Exemptions

- BCD, CVD & SAD exemption on goods imported through postal parcels, packets and letters, of CIF value not more than one thousand rupees per consignment.
- BCD, CVD and SAD exemption on miniaturised POS card reader for mPOS (other than Mobile phone or Tablet Computer) and on parts and components for manufacture of miniaturised POS card reader for mPOS.
- BCD, CVD and SAD exemption on Micro ATMs as per standards version 1.5.1, fingerprint reader / scanner, and Iris Scanner and on parts and components for manufacture of these devices.
- SAD exemption on Catalyst and Resin for use in the manufacture of cast components of Wind Operated Electricity Generator.

### Tariff Exemption withdrawn

- CVD exemption withdrawn on silver medallions and coins having silver content not below 99.9%, other semi-manufactured forms of silver or articles of silver.
- BCD exemption withdrawn on Co-polymer coated MS tape/ stainless steel tape for manufacture of telecommunication grade optical fibres or optical fibre cables.
- Populated PCBs of mobile phones are being excluded from the purview of Nil SAD.