

Union Budget 2015-16: Indirect Tax Highlights

February 28, 2015



Key Takeaways:

Service Tax

Change in Service Tax rate

- Service Tax rate increased from **12.36% (including education cess and secondary and higher education cess) to 14%** (with effect from a date to be notified after the enactment of the Finance Bill, 2015).
- Till the time the revised rate come into force, the levy of 'Education Cess' & 'Secondary & Higher Education Cess' shall continue.

Imposition of Swachh Bharat Cess

- Imposes Swachh Bharat Cess on all or any of the taxable services @ 2% w.e.f. from a date to be notified by the Central Govt. in this regard. It will not have any immediate effect.

Review of the Negative List (Effective from a date to be notified)

- Service tax levy extended to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks, theme parks, etc.
- Service Tax imposed on admission for entertainment events such as concerts, non-recognized sporting events, pageants, music concerts, award functions, if admission fee more than INR 500.
- Irrespective of admission fee, no tax on exhibition of cinematographic film, circus, recognized sporting events, dance, theatrical performances including drama and ballets.

- Service Tax extended on contract manufacturing / job work for production of potable liquor.
- Service Tax imposed on support service by Govt. or local authority to a business entity, unless specifically specified.

Withdrawal of exemptions from April 1, 2015

- Exemption only on specified services of construction, erection and commissioning provided to Govt. and shall be limited to historical monument, archaeological site, canal, dam, pipeline and conduit or plant for (i) Water supply (ii) Water treatment or (iii) Sewerage treatment or disposal.
- Exemption withdrawn Construction, erection, commissioning or installation of original works pertaining to an airport or port.
- Exemption withdrawn on services by a performing artist in folk or classical art form, if amount charged is more than INR 1,00,000.
- Exemption to transportation of food stuff by rail, or vessels or road limited to food grains.
- Exemption withdrawn for services by mutual fund agent to a mutual fund or assets management company, distributor to a mutual fund or AMC.
- Exemption withdrawn on departmentally run public telephone, guaranteed public telephone operating only local calls, telephone calls from free telephone at airport and hospital.

New exemptions from April 1, 2015

- Exemption on pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables.
- Exemption on service by Common Effluent Treatment Plant operator for treatment of effluent.
- Exemption on service by way of exhibition of movie by the exhibitor to the specified class of people.
- Exemption for transportation of a patient to and from a clinical establishment by a clinical establishment, including by an ambulance.
- Exemption for admission to a museum, zoo, national park, wild life sanctuary, and a tiger reserve.
- Exemption for goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, port, etc.

Other Amendments to Finance Act, 1994 (Effective from a date to be notified)

- Service Tax levy on chit fund foreman by way of conducting a chit and by distributors or selling agents of lottery.
- For valuation of taxable service in case of chit fund and lottery distribution, consideration of service to include reimbursable expenditure or cost incurred and charged by the service provider and amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket.
- Penalty imposed not to be more than 10%, if no fraud or collusion, et al.
- No penalty if service tax and interest paid within 30 days of issuance of SCN.
- Penalty imposable is 100%, of the service tax amount involve or if fraud or collusion, et al.

Rationalization of Abatements from April 1, 2015

- Uniform abatement for transport by rail, road and vessel, Service Tax payable on 30% of value of services.
- Service Tax payable on 60% of the value of air transport of passenger for higher classes.
- Exemption withdrawn on chit fund service.

Reverse Charge Mechanism from April 1, 2015

- Full reverse charge on manpower supply and security services provided by an individual, HUF, or partnership firm to a body corporate.
- Reverse charge mechanism on services by mutual fund agents, mutual fund distributors and agents of lottery distributor.
- Credit allowed on service tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider.

Miscellaneous

- Imposes service Tax on service by aggregator, if brand name of aggregator used (effective March 1, 2015).

- Exemption withdrawn on service by commission agent located outside India to an exporter located in India.

Central Excise

Change in rate of Basic Central Excise Duty

- Basic Excise Duty increased from **12% to 12.5% with immediate effect.**
- Education Cess and Secondary & Higher Education Cess are being subsumed in Basic Excise Duty. Hence same are now exempted. However, Education Cess and Secondary & Higher Education Cess to remain continue on imported goods.
- No change in total incidence of various duties of excise on petrol and diesel.

Non-Tariff Changes

Central Excise Act amendments:

- Government can specify more than one factor relevant to production of such goods while charging excise duty on the basis of capacity of production in respect of notified goods.
- Sec 11A (pertaining to recovery of duties not levied or not paid or short levied or short paid or erroneously refunded) would not be applicable to cases where non-payment / short – payment of duty reflected in periodic returns filed and in such cases, recovery of duty shall be made in manner prescribed in the rule.
- Amendments in Penalty Provisions:
 - Imposition of penalty not exceeding 10% of the duty or Rs. 5000, whichever higher, in case no intent to evade payment of excise duty.
 - If duty and interest paid before issue or SCN or 30 days within the issue, no penalty would be payable and all proceedings would be deemed to be concluded, provided no intent to evade payment of excise duty.

- Imposition of penalty equal to duty, if intent to evade payment of excise duty established.
 - Imposition of penalty to be 50%, if details relating to transactions recorded in the specified record for the period beginning with 8th April, 2011 and up to the date of assent to the Finance Bill, 2015, in case intent to evade payment of excise duty established.
 - Deemed conclusion of proceedings and penalty to be 15%, if duty and interest paid within 30 days of receipt of SCN provided the penalty too is paid within the next 30 days, in case intent to evade payment of excise duty established.
 - In case intent to evade payment of excise duty established, if duty determined and interest payable is paid within 30 days of the date of communication of Central Excise Officer order, the amount of penalty would be reduced to 25% of the duty so determined, provided that such reduced penalty is also paid within 30 days of the date of communication of such order.
 - In case intent to evade payment of excise duty established, if duty amount gets reduced in any appellate proceeding, then penalty amount also stand modified and benefit of reduced penalty (25% of penalty imposed) to be admissible if duty, interest and reduced penalty paid within 30 days of such appellate order.
- Amendment to provisions of Settlement Commission:
 - Amendment enabling Vice Chairman or Member of the Settlement Commission to officiate as Chairman in the absence of the Chairman of the Settlement Commission.
 - Amendment prohibiting a Member of the CBEC appointed as the Chairman, Vice Chairman or Member of the Settlement Commission to continue as member of the Board.
 - Provision enabling applicant, who has not paid the amount so ordered by the Settlement Commission within thirty days from 1st day of June 2007, to pay the accepted duty liability redundant and therefore omitted.
 - Provision providing that Settlement Commission can reopen the completed proceedings redundant and therefore omitted.
 - Explanation providing Settlement Commission to decide applications filed on or before 31st day of May 2007 redundant and hence, omitted.

- Increases penalty from Rs 2000 to Rs 5000 where manufacturer, producer or licensee of warehouse removes excisable goods in contravention of provisions / does not account for manufactured goods / manufactures without registration.
- Retrospective application on Exemption from March 17, 2012 to February 2, 2014 for S.No.205A of Notification No.12/2012-CE, which exempts railway or tramway track construction material of iron and steel from payment of excise duty on the value of rails.

Changes in CENVAT Credit Rules w.e.f. March 1, 2015

- CENVAT credit also available immediately on receipt of inputs and capital goods in the premises of job worker, in case goods are sent directly on the direction of manufacturer or output service provider.
- Time limit for availment of CENVAT credit increased from **six months to 1 year**.
- Allows credit on inputs & capital goods even if they are as such or after being processed partially are sent to job worker and from there subsequently sent to another job worker and likewise, for further processing.
- Where CENVAT credit wrongly taken or erroneously refunded, manufacturer / service provider can be proceeded against for credit **taken wrongly taken, but not utilized**.
- Credit taken during a month shall be deemed to have been taken on the last day of the month.

Key Tariff Changes:

- Excise Duty on waters, including mineral waters and aerated / flavored waters increased from 12% to 18%.
- Excise Duty increased by 25% for cigarettes of length not exceeding 65 mm, and 15% for all others.
- Excise Duty on cut tobacco increased from Rs. 60 per kg to Rs. 70 per kg.
- Tariff rate for various cement increased from Rs. 900 per tonne to Rs. 1000 per tonne.
- Tariff rate on high speed diesel(HSD) increased from 14% + Rs. 5 per litre to 14% + Rs. 15 per litre; no change in the aggregate of various duties of excise on HSD.
- Tariff rate on sacks and bags increased from 12% to 18%

Electronics / Hardware:

- Excise duty on wafers for manufacture of integrated circuit (IC) modules for smart cards reduced from 12% to 6%
- Excise duty on inputs for use in the manufacture of LED drivers and MCPCB for LED lights, fixtures and lamps reduced from 12% to 6%.
- Excise duty structure for mobiles phones changed from 1% without CENVAT credit or 6% with credit changed to 1% without credit or 12.5% with credit. However, National Calamity Contingent Duty (NCCD) of 1% on mobile phones remains unchanged.
- Excise duty structure of 2% without CENVAT credit or 12.5% with credit extended to tablet computers.
- Exempts parts, components and accessories for use in manufacture of tablet computers from whole of BED.
- Exempts specified raw materials for use in manufacture of pacemakers from whole of BED.

Consumer Goods:

- Excise duty on leather footwear, of Retail Sale Price of more than Rs. 1000 per pair reduced from 12% to 6%.
- Deletes 5% Additional Excise duty on mineral and aerated waters, containing added sugar or other sweetening matter. Till the enactment of the Finance Bill, 2015, the said additional duty of excise of 5% leviable on such goods would be exempted.
- Basic Excise Duty rate on mineral / aerated water increased from 12% to 18%

Automobiles:

- Excise duty on chassis for ambulances reduced from 24% to 12.5%.
- Concessional excise duty of 6% on specified goods for use in the manufacture of electrically operated vehicles and hybrid vehicles extended from March 31, 2015 to March 31, 2016.

Food Processing Sector:

- Abatement of 30% for all miscellaneous edible preparations goods.

- Abatement of 35% for goods such as lemonade and other beverages.
- Levy of 2% without CENVAT credit or 6% with CENVAT credit excise duty on condensed milk put up in unit containers.
- Abatement of 30% on Condensed milk.

Health:

- Excise duty on cigarettes increased by 25% for length not exceeding 65 mm and by 15% for others.
- Excise duty on cigars, cheroots & cigarillos and cigarettes & cigarillos of tobacco substitutes increased.
- Maximum speed of packing machine for packing of notified goods of various retail sale prices specified as factor relevant to production for determining excise duty payable under the Compounded Levy Scheme presently applicable to pan masala, gutkha and chewing tobacco. Deemed production and duty payable per machine per month notified with reference to the speed range in which the maximum speed of a packing machine falls.

Petroleum, effective from March 1, 2015:

- Increase in schedule rates of Road Cess (Additional Duty of Excise) levied on Petrol and High Speed Diesel Oil increased from 2 per litre to 8 per litre, and effective rates from 2 per litre to 6 per litre.
- Exemption of Education Cess and Secondary and Higher Education Cess.

Miscellaneous:

- Full exemption from excise duty extended to captively consumed intermediate compound coming into existence during the manufacture of Agarbattis.
- Omission of entry relating to levy of Additional Duty of Excise of 5% ad valorem on waters, including mineral waters and aerated waters containing added sugar.
- Scheduled rate of Clean Energy Cess increased from Rs.100 per tonne to Rs. 300 per tonne.
- Effective rate of Clean Energy Cess increased from Rs. 100 per tone to Rs. 200 per tone.

Customs

Key Non-Tariff Changes

Changes in Recovery provisions

- In case of non-fraudulent intention to evade duty, no penalty to be imposed if Customs duty along with interest has been paid within 30 days from receipt of notice date.
- In case of fraudulent intention to evade duty, penalty has been reduced from 25% to 15%
- Where notice has been served but no order determining duty has been passed before Finance Act 2015, proceedings would be deemed to be concluded in case of duty payment within 30 days from date when Finance Bill 2015 receives assent.
- In case of improper importation / exportation of dutiable goods, penalty not exceeding 10% of duty sought to be evaded or Rs 5000, whichever is greater, to be levied on persons acquiring possession of such goods. Earlier, penalty was up to the amount of duty sought to be evaded.

Changes in provisions with regard to Settlement of cases

- Any case referred back by any Court / Tribunal to adjudicating authority, not entitled for settlement. Earlier, such reference was in respect of 'appeal or revision', which has been deleted now.
- Provisions relating to Settlement of Cases under Sec 127B (1A), Sec 127C (6), Section 127E, Sec 127H (1) has become redundant with period of time. Hence, same have been omitted.

Key Tariff Changes

- Tariff rate of Basic Customs Duty (BCD) on bituminous coal reduced from 55% to 10%.

- Tariff rate of BCD on iron / steel and articles of iron / steel increased from 10% to 15%. However, no change in existing effective rates of BCD on these goods.
- Tariff rate of BCD on motor vehicles for transport of ten or more persons increased from 10% to 40%. BCD on such vehicles increased from existing 10% to 20%. However, BCD on such vehicles in completely knocked down (CKD) condition and electrically operated vehicles to continue to be at 10%.

Electronics:

- BCD on Organic LED (OLED) TV panels reduced from 10% to Nil.
- BCD on Black Light Unit Module used in manufacture of LCD/LED TV panels reduced from 10% to Nil, subject to actual user condition.
- Exempts Parts / components / accessories used in manufacture of tablet computers and their sub-parts for use in the manufacture of parts / components / accessories from whole of BCD, Countervailing Duty (CVD) and Special Additional Duty (SAD), subject to actual user condition
- BCD on HDPE for used in manufacture of telecommunication grade optical fibre cables reduced from 7.5% to Nil, subject to actual user condition
- BCD on 'metal parts' used in manufacture of electrical insulators reduced from 10% to 7.5%, subject to actual user condition.
- BCD on specified inputs for use in the manufacture of flexible medical video endoscope is reduced from 5% to 2.5%.
- Exempts inputs for use in the manufacture of LED drivers and MCPCB for LED lights, fixtures and lamps from whole of SAD subject to actual user condition.
- Exempts raw materials such as battery, titanium, etc. for use in the manufacture of pacemakers from whole of CVD and SAD subject to actual user condition.
- BCD on Digital Still Image Video Camera and parts and components for use in the manufacture of such cameras reduced to Nil.

Automobiles:

- Tariff Rate of BCD on commercial vehicles increased from 10% to 40%.
- BCD on commercial vehicles increased from existing 10% to 20%.
- Extends Concessional Custom Duties i.e. Nil BCD, 6% CVD and nil SAD from March 31, 2015 to March 31, 2016.

Health:

- Exempts artificial heart (left ventricular assist device) from whole of BCD and CVD.

Others:

- Scheduled rate of Additional Customs Duty on Petrol and High Speed Diesel Oil increased from Rs 2/litre to Rs 8 / litre. Effective rate of duty increased from existing Rs 2 / litre to Rs 6/litre
- SAD on melting scrap of iron / steel including stainless steel scrap for melting, copper scrap, brass scrap and aluminum scrap reduced from 4% to 2%.
- BCD on sulphuric acid for manufacture of fertilizers reduced from 7.5% to 5%.
- SAD on naphtha, ethylene dichloride (EDC), vinyl chloride monomer (VCM) and styrene monomer (SM) for manufacture of excisable goods is being reduced from 4% to 2%.

Miscellaneous:

- Exempts cash dispenser and automatic bank note dispensers from BCD.
- Requires importer to furnish Bank Guarantee / Fixed Deposit Receipt for 66 months instead of 36 months for imports made under provisional certificate status of Mega Power projects.
- Certificate issued by Director General of Health Services for availing BCD / CVD exemption on life saving drugs and medicines to be valid for 1 year, provided import of such drugs is on regular basis.
- Withdraws CVD and SAD exemption on goods imported for Security Printing and Minting Corporation of India Limited (SPMCIL).

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