

INDIRECT TAXES UPDATE - 87

HIGHLIGHTS OF BUDGET 2013-14: INDIRECT TAXES

Service Tax

A. Amendments made vide Notifications No. 2-4/2013 ST dated 01.03.2013

1. The amendments effective from March 1, 2013:

- Service tax to be paid on 30% of the value of a complex, building, civil structure having carpet area of more than 2000 sq. ft or where the amount charged is ₹ 1 crore or more. However, in case of a residential unit having carpet area of upto 2000 sq. ft. or where the amount charged is less than ₹ 1 crore, service tax would continue to be liable on 25% of the value of the property.
- Resident public limited companies to be eligible to seek advance ruling in case of specified matters relating to service tax.

2. The amendments effective from April 1, 2013:

- All restaurants with air-conditioning or central air heating (including restaurants not serving liquor as well) in any part of the establishment at any time during the year to be liable to service tax.
- Transportation of the following items by a Goods Transport Agency **would be exempted**
 - foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages,
 - relief materials for specialized purposes,
 - chemical fertilizers and oil cakes,
 - registered newspapers or magazines and defense equipments.
- The exemptions available in respect of the following services would be withdrawn:
 - Transportation of petroleum and petroleum products, postal mails or mail bags and household effects by railways and vessels.
 - Services provided by an educational institution by way of renting of immovable property or auxiliary educational service. However, such services when provided to an educational institution would continue to be exempt

from service tax.

- Temporary transfer or permitting the use or enjoyment of a copyright of cinematograph films for exhibition elsewhere than in a cinema hall or a cinema theatre.
- Services by way of vehicle parking to general public.
- Services provided to Government, a local authority or a governmental authority, by way of repair or maintenance of aircraft.
- The exemption limit of ₹ 25lacs available to charitable organizations providing service towards any other object of general public utility would be withdrawn.

B. Amendments vide the Finance Bill, 2013 (amendments effective from the date of the enactment of the Finance Bill, 2013)

- Voluntary Compliance Encouragement Scheme, 2013 (VCES) is proposed to be introduced to encourage voluntary compliance and broaden the tax base. In this scheme, it is proposed to provide one time amnesty by way of (i) waiver of interest and penalty; and (ii) immunity from prosecution, to the stop filers, non-filers or non-registrants or service providers (who have not disclosed true liability in the returns filed by them during the period from October 2007 to December 2012) who pay the "tax dues". The scheme would be effective from the date of the enactment of the Finance Bill, 2013.
- Courses in 'designated trades' offered by Industrial Training Institute or Industrial Training Center affiliated to State Council of Vocational Training to be covered under the negative list.
- Definition of "process amounting to manufacture or production of goods" to include processes on which duties of excise are leviable under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 thereby bringing the same under the negative list.
- Testing activities directly related to agriculture production of any agricultural produce like soil testing, animal feed testing, testing of samples from plants or animals, for pests and disease causing microbes to be covered under the negative list.
- A show cause notice issued for fraud cases, if not found sustainable by an appellate authority or tribunal or court, to be deemed to be a notice issued for a period of eighteen months.
- Maximum penalty for failure to obtain registration to be restricted to ₹ 10,000 only as against earlier penalty of ₹10,000 or ₹200 per day of default whichever is

higher.

- Director, manager, secretary or other officer of the company, who is in any manner knowingly concerned with specified contraventions, to be liable to a penalty of ₹1 Lakh. The specified contraventions would include evasion of service tax, issuance of invoices, bill, challan without the provision of taxable service, availment and utilization of credit without actual receipt of taxable service or excisable goods or failure to pay any amount collected as service tax to the credit of the Central Government beyond the period of 6 months from the date on which such payment becomes due.
- Appellate tribunal to admit an appeal or permit the filing of memorandum of cross objections even after the expiry of the period of 3 months in case of assessee appeal also.
- Any person who collects any amount as service tax but fails to deposit the same to the Central Government within 6 months would be punishable with imprisonment for a term which may extend to 7 years but not less than 6 months if such amount exceeds ₹50 lakh.
- Section 90 is proposed to be introduced to specify and differentiate the offences provided in section 89(1) into cognizable offences from non-cognizable and bailable offences.
- Commissioner of Central Excise to be empowered to authorize any officer of Central Excise not below the rank of Superintendent of Central Excise to arrest a person for offences specified under clauses (i) & (ii) of section 89(1) i.e., where the amount involved in the offence exceeds ₹50 Lakh.

Central Excise Duty

- Speed post with proof of delivery or courier approved by the Central Board of Excise & Customs would also be the prescribed modes of delivery for any decision or order or any summons or notices.
- Advance ruling may also be sought on the matters relating to credit of service tax paid or deemed to have been paid on input services.
- Offences relating to excisable goods, (with the duty liability exceeding ₹50 lakh) which are punishable for evasion of payment of any duty or contravention of any of the provisions relating to credit of any duty to be cognizable and non-bailable.
- An offence involving evasion to be punishable with a term of imprisonment extending to seven years with fine in case the duty leviable exceeds ₹50 lakh instead of earlier ₹30 lakh.
- “Resident public limited companies” to be eligible for seeking advance ruling on

central excise and service tax matters as is available under Customs.

- Money due to the Government may now be recovered from any person other than from whom money is due after giving a proper notice, if that other person holds money for or on account of the first person.
- Recovery provisions provided under rule 14 of the CENVAT Credit Rules, 2004 to apply in case of failure to pay the amount on removal of inputs/capital goods as such, after use and writing off the value of the inputs/capital goods.
- Service of a statement containing details of duty not paid, short levied or erroneously refunded to be deemed to be a show cause notice.
- The officer-in-charge of police station to admit the arrested person to bail to appear before the Magistrate or in default of bail forward him in custody of Magistrate only where the offence is non-cognizable.
- Interest on refund arising out of finalization of provisional assessment to be paid as per the provisions of section 11BB.
- MRP based valuation prescribed with 35% abatement for non-allopathic medicaments.
- Excise duty on following goods enhanced:-
 - Mobile phones of retail sale price exceeding ₹2000/-.
 - Cigarettes
 - Marble tiles and slabs
- Full exemption from excise duty on ships and other vessels. Hence, there will be no CVD on import of the same.
- 'Zero excise duty route' restored in respect of branded readymade garments and made ups.

Customs Duty

- Duty free allowance in respect of jewellery for an Indian passenger who has been residing abroad for over one year or a person who is transferring his residence to India raised from ₹ 10,000 to ₹50,000 in case of a gentleman passenger and from ₹ 20,000 to ₹1,00,000 in case of a lady passenger.
- Duty free allowance for crew member of vessel/aircraft raised from ₹600 to ₹ 1500.
- Customs house agents to be known as customs brokers.

- It is proposed that the minimum amount of refund of customs duty will be ₹100.
- For issuance of the show cause notice, it is proposed that the minimum amount demanded should be ₹ 100.
- Interest free period for payment of import duty to be reduced from five days to two days.
- Import/export general manifest to be filed electronically. However, Commissioner of Customs may, in cases where it is not feasible to electronically present the same, allow the same to be delivered in any other manner.
- CBEC to be empowered to permit the landing of vessels and aircrafts at any place other than customs port or customs airport.
- Following specified offences would be non-bailable:-
 - a. evasion of duty exceeding ₹ 50 lakh;
 - b. import or export of prohibited goods notified under section 11 which are also notified under section 135;
 - c. import or export of any goods not declared in prescribed manner and the market price of which exceeds ₹1 crore;
 - d. Fraudulent availment of drawback or exemption, if the amount of drawback or exemption from duty exceeds ₹50 lakh.
- The period of storage of imported goods, pending clearance, in a public or private warehouse to be reduced to thirty days. However, Commissioner of Customs may extend the period of storage for further period not exceeding thirty days at a time.
- The threshold limit for punishment in an offence relating to evasion of duty or fraudulent availment of drawback or exemption from duty in connection with export of goods, to be increased from ₹30 lakh to ₹ 50 lakh.
- It is proposed that any warehoused goods may be exported to a place outside India without payment of import duty if a shipping bill or a bill of export in prescribed form or label or declaration accompanying the goods as referred to in section 82 has been presented in respect of such goods.
- Importation or exportation of goods to be prohibited for protection of "designs and geographical indications" also.
- Provisional attachment of property may be ordered in case of non-payment of duty on account of fraud, suppression of facts etc as well.

- Provisions relating to duty deferment to be omitted.
- No duty liability on any sample of goods which is consumed or destroyed during the course of testing or examination.
- Basic customs duty enhanced on the following goods:-
 - Yachts and motor vehicles
 - Raw silk
 - Set top boxes
 - Luxury cars (duty enhanced from 75% to 100%)

Common Points

- Rate of service tax, customs duty and excise duty not tinkered with.
- In cases where the delay in disposing of the appeal is not attributable to the appellant, the Tribunal may extend the period of stay by a period not exceeding 185 days subject to the condition that if the appeal is not disposed of within the total period of 365 days from the date of order, the stay order shall stand vacated.
- The producer or manufacturer allowed to seek advance ruling while starting a new line of business of production or manufacture. Similarly, the importer or exporter also would be allowed to seek advance ruling while starting a new line of business.
- Monetary limit of the Single Bench of the Tribunal to hear and dispose of appeals enhanced from ₹10 lakh to ₹50 lakh.

Goods and Services Tax

Roadmap for GST announced. First decisive step taken by allocating a sum of ₹ 9,000 crore towards the first installment of the balance of CST compensation. Draft Constitutional Amendment Bill for GST and Draft GST Bill to be placed in the Parliament within the next few months.

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