

INDIRECT TAXES

SERVICE TAX

Amendments effective from 02.02.2017

Amendment in Mega Exemption Notification No. 25/2012 ST dated 20.06.2012

- Services provided or agreed to be provided by the 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 exempted from service tax vide *new entry 26D* inserted in Mega Exemption notification.
- Under the Regional Connectivity Scheme (RCS), exemption from service tax is provided in respect of the amount of viability gap funding (VGF) payable to the selected airline operator for the services of transport of passengers, with or without accompanied belongings, by air, embarking from or terminating in a Regional Connectivity Scheme (RCS) airport, for a period of 1 year from the date of commencement of operations of the Regional Connectivity Scheme (RCS) as notified by Ministry of Civil Aviation vide *new entry S. No. 23A* inserted in Mega Exemption notification.
- The entry 9B exempts services provided by Indian Institutes of Management (IIMs) by way of two year full time residential Post Graduate Programmes (PGP) in Management for the Post Graduate Diploma in Management (PGDM), to which admissions are made on the basis of the Common Admission Test (CAT), conducted by IIM. The said entry is amended so as to omit the word “residential” appearing in the notification. The exemption remains the same in all other respects.

Amendments to be effective from the date of enactment of the Finance Bill, 2017

- The Negative List entry under section 66D(f) of the Finance Act, 1994 covering “*services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption*” is proposed to be omitted. The said benefit would continue by way of exemption under Mega Exemption Notification.

Consequently, the definition of '*process amounting to manufacture*' [Section 65B(40)] is also proposed to be omitted from the Finance Act, 1994 and to be incorporated in the Mega Exemption Notification.

- Research and Development (R & D) Cess Act, 1986 to be repealed. Consequently, exemption from service tax equivalent to the amount of R & D cess payable on the import of technology under the said Act under *Notification No. 14/2012 ST dated 17.03.2012* would not be available with respect to a taxable service involving import of technology.
- Rule 2A of the Service Tax (Determination of Value) Rules, 2006 to be amended so as to clarify that value of service portion in execution of works contract involving transfer of goods and land or undivided share of land, as the case may be, shall not include value of property in such land or undivided share of land. In view of the said amendment, the recent Delhi High Court judgment in case of *Suresh Kumar Bansal v. UOI 2016 (43) ST5R 3 (Del.)* no longer holds good. In this the High Court held that service tax cannot be charged in respect of composite contracts for purchase of units in a complex, entered into by the buyers with the builder, in view of the absence of the specific machinery provisions for the valuation of the same.

Amendments in Provisions of Advance Ruling

- Section 96A(d) relating to Advance Rulings proposed to be amended so as to substitute the definition of "Authority" to mean the Authority for Advance Ruling as constituted under section 28E of the Customs Act, 1962. Section 28 (E) of the Customs Act, 1962, is also to be amended so as to substitute the definition of "Authority" to mean the Authority for Advance Ruling as constituted under section 245-O of the Income-tax Act, 1961.
- Section 96B relating to vacancies not to invalidate proceedings also proposed to be omitted.
- Section 96C(3) to be amended so as to increase the application fee for seeking advance ruling from ` 2,500 to ` 10,000.
- Section 96D(6) to be amended so as to extend the existing time limit of pronouncement of advance ruling by the authority from 90 days to 6 months.
- A new section 96HA proposed to be inserted so as to provide for transferring the pending applications before the Authority for Advance Rulings (Central Excise, Customs and Service Tax) to the Authority constituted under section 245-O of the Income-tax Act

from the stage at which such proceedings stood as on the date on which the Finance Bill, 2017 receives the assent of the President.

Retrospective Exemptions

- With effect from 22.09.2016, *Notification No. 41/2016 ST dated 22.09.2016* exempted one time upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for grant of long-term lease of industrial plots (30 years or more) by State Government industrial development corporations/ undertakings to industrial units. It is proposed that service tax would also not be leviable on such amounts during the period between 01.06.2007 [date on which service tax was levied on renting of immovable property service] and 21.09.2016 (both days inclusive).
- Services provided or agreed to be provided by the 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 are proposed to be exempted from service tax retrospectively during the period commencing from the 10.09.2004 [date on which life insurance service became leviable to service tax] and ending with the 01.02.2016 (both days inclusive).

EXCISE

Amendments to be effective from the date on which Finance Bill, 2017 receives the assent of the President

- **Changes in the provision of Authority for Advance Ruling**
 - Clause (e) of section 23A is being amended so as to substitute the definition of “Authority” to mean the Authority for Advance Ruling as constituted under section 245-O of the Income-tax Act, 1961.
 - Section 23B relating to vacancies (in the Authority for advance ruling) not to invalidate proceedings is being omitted.
 - The application fee for seeking advance ruling has been increased from Rs. 2,500/- (Rupees two thousand five hundred) to Rs. 10,000/- (Rupees ten thousand) - Section 23C (3).
 - The time limit for pronouncing judgement by Authority for Advance Ruling has been extended from ninety days to six month - Section 23D (6).
 - The pending applications before the Authority for Advance Rulings (Central Excise, Customs and Service Tax) would stand transferred to the Authority constituted under section 245-O of the Income-tax Act from the stage at which such proceedings stood as on the date on which the Finance Bill, 2017 receives the assent of the President - new Section 23-I
- **Changes in the provisions of Settlement Commission:**
 - A new sub-section (5) has been inserted in Section 32E so as to enable any person, other than assessee, referred to in sub-section (1) to make an application to the Settlement Commission.
 - A new sub-section (5A) has been inserted in Section 32F to enable the Settlement Commission to rectify the error in the order passed by it under sub-section (5), which are apparent on the face of record.

Amendment effective from 02.02.2017

- **Amendment in Central Excise Rules, 2002**
 - Rule 21 provides for the remission of duty in case the goods have been lost or destroyed etc. A new sub-rule (2) has been inserted providing a time limit of three months [further extendable by 6 months] for granting such remission of duty from the receipt of application under this rule read with section 5 of the Central Excise Act, 1944.
- **Amendments in CENVAT Credit Rules, 2004**
 - Rule 10 of the CENVAT Credit Rules, 2004 provides for transfer of CENVAT credit in different cases. In this regard, a new sub-rule (4) has been inserted so as to provide for a time limit of three months [further extendable by 6

months] for approval of requests regarding transfer of CENVAT credit on shifting, sale, merger, etc. of the factory.

- Explanation-I(e) to rule 6 of the CENVAT Credit Rules, 2004 amended so as to exclude banks and financial institutions including non-banking financial companies engaged in providing services by way of extending deposits, loans or advances from its ambit.

CUSTOMS

Amendments to be effective from the date on which Finance Bill, 2017 receives the assent of the President

- Definition of following terms is proposed to be incorporated in section 2 of the Customs Act, 1962:
 - Beneficial owner
 - Passenger Name Record Information
 - Foreign Post Office and
 - International Courier Terminal
- Section 2 of the Customs Act, 1962 is further proposed to be amended to include:
 - Foreign Post Office and International Courier Terminal in the definition of a customs station.
 - Beneficial owner in the existing definitions of exporter as well as importer.
- Section 7 of the Customs Act, 1962 to be amended to empower the Board to notify Foreign Post Offices and International Courier Terminals.
- Section 17 of the Customs Act, 1962 is proposed to be amended to rationalize the requirement of documents for verification of self-assessment.
- Section 27(2) of the Customs Act, 1962 to be amended so as to keep outside the ambit of unjust enrichment, the refund of duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made, where-
 - such excess payment is evident from the bill of entry in the case of self-assessed bill of entry or
 - the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.
- Section 28E(e) of the Customs Act, 1962 is proposed to be amended so as to substitute the definition of 'Authority for Advance Ruling' to mean the Authority for Advance Ruling as constituted under section 245-O of the Income-tax Act, 1961.
- Section 28F of the Customs Act, 1962 to be amended so as to provide that the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 shall be the Authority for giving advance rulings for the purposes of the Customs Act, 1962.

It is further sought to provide that the Member of the Indian Revenue Service (Customs and Central Excise), who is qualified to be a Member of the Board, shall be the revenue Member of the Authority for the purposes of Customs Act.

The pending applications are proposed to be transferred to the Authority constituted under section 245-O of the Income-tax Act from the stage at which such proceedings stood as on the date on which the Finance Bill, 2017 receives the assent of the President.

- Section 28H(3) of the Customs Act, 1962 is proposed to be amended so as to increase the application fee for seeking advance ruling from ` 2,500 to ` 10,000 on the lines of the Income-tax Act.
- Section 28-I(6) of the Customs Act, 1962 to be amended so as to provide time of limit of 6 months by which Authority shall pronounce its ruling on the lines of the Income-tax Act.
- A new section 30A to be introduced in the Customs Act, 1962 so as to make it obligatory on the person-in-charge of a conveyance that enters India from any place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, to deliver to the proper officer the passenger and crew arrival manifest before arrival in the case of an aircraft or a vessel and upon arrival in the case of a vehicle; and passenger name record information of arriving passengers in such form, containing such particulars, in such manner and within such time as may be prescribed. The section also intends to provide for imposition of a penalty not exceeding ` 50,000, as may be prescribed, in the case of delay in delivering the information.
- A new section 41A to be introduced in the Customs Act, 1962 so as to make it obligatory on the person-in-charge of a conveyance that departs from India to a place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, to deliver to the proper officer the passenger and crew departure manifest and passenger name record information of departing passengers before the departure of the conveyance in such form, containing such particulars, in such manner and within such time as may be prescribed. The section also intends to provide for a penalty not exceeding ` 50,000, as may be prescribed in the case of delay in delivering the information.
- Section 46(3) of the Customs Act, 1962 is to be substituted so as to make it mandatory 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 and to provide for imposition of such charges for late presentation of the bill of entry, as may be prescribed.
- Section 47(2) of the Customs Act, 1962 is to be amended so as to provide 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.
- Section 49 of the Customs Act, 1962 provides the facility of storage of imported goods entered for home consumption in a warehouse pending their clearance. The said section is proposed to be amended to extend the said facility to imported goods entered for warehousing before their removal.
- Section 82 relating to label or declaration accompanying goods to be treated as entry for import or export is proposed to be omitted.

Consequently, section 69 of the Customs Act, 1962 relating to clearance of warehoused goods for exportation is proposed to be accordingly amended to align it with the proposed omission of section 82.

Further, Board is proposed to be empowered 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 by amending section 84 of the Customs Act, 1962.

- A new sub-section (5) to be inserted to section 127B of the Customs Act, 1962 to enable any person, other than applicant, referred to in sub-section (1) to make an application to the Settlement Commission.
- Section 127C(3) of the Customs Act, 1962 is to be amended so as to substitute certain words therein. It further seeks to insert a new sub-section (5A) therein to enable the Settlement Commission to amend the order passed by it under sub-section (5), to rectify any error apparent on the face of record.
- Section 157 of the Customs Act, 1962 is to be amended so as to empower Board to make regulations for specifying the form, particulars, manner and time of providing the passenger and crew manifest for arrival and departure and passenger name record information and penalty in the case of delay in delivering the information.
- Section 9(3)(c) of the Customs Tariff Act, 1975 is to be substituted so as to withdraw the exemption to three categories of non-actionable subsidies specified therein from the scope of anti-subsidy investigations.

**BUDGET ESTIMATE FOR REVENUE COLLECTION FROM
INDIRECT TAXES**

Head of taxes	Actual	Budget	Revised	Budget
	2015-2016	2016-2017	2016-2017	2017-2018
Customs Duties-				
Import Duty	2,03,074.88	2,23,204.00	2,09,950.00	2,38,200.00
Exporty Duty	7,263.12	6,796.00	7,050.00	6,800.00
Union Excise Duties	2,88,072.89	3,18,669.50	3,87,368.58	4,06,900.00
Service Tax	2,11,414.25	2,31,000.00	2,47,500.00	2,75,000.00
Taxes on union territories	3,878.26	4,121.08	4,277.16	4,679.46
Total Indirect Tax Revenue	7,13,703.40	7,83,790.58	8,56,145.74	9,31,579.46