

Union Budget 2011-12

Indirect Tax Proposals

Preliminary Highlights

General:

- (i) Proposals aimed at moving towards Goods and Service Tax
 - (a) The Point of Taxation Rules, 2011 have been made effective from 01.04.2011 whereby the point of taxation for service tax has been shifted from receipt basis to accrual basis. Though the move is a precursor to the proposed GST, it requires to be revisited in view of the fact that many assesseees maintain books on cash basis as income tax also recognizes cash basis of accounting. Further, when goods can be reclaimed service cannot be taken back.
 - (b) Service tax base has been broadened by adding two new services and significantly increasing the scope of seven existing services.
 - (c) The value added tax can achieve the desired goals only when the chain is continuous without any exemptions. A step has been taken in that direction by withdrawing excise duty exemption from 130 specified items (mainly consumer goods) which would be applicable from 1st March, 2011. The SSI exemption, however may be available in respect of all of them.
 - (d) Lower rate of excise duty of 4% raised to 5% so as to align it with rates of VAT prevalent in various States.
 - (e) The Finance Minister has proposed to initiate an informed public debate on the compilation of small negative list of services which would be conducive for a nationwide GST.
 - (f) Maintenance of status quo in respect of excise and service tax rates is also aimed at moving towards the GST.
- (ii) Significant amendments have been proposed in penal provisions of central excise duty and service tax which at one hand facilitate tax compliant assesseees but impose stringent measures for the deviants. Penalties have been increased across the board.

Specific:

A. Service Tax

1. Broadening of tax base

The annual practice of adding new services to the tax net has been continued by introducing two new services and expanding the scope of existing seven services.

a. New services

- Services provided by air-conditioned restaurants licensed for serving alcohol beverages.
- Accommodation provided by the hotel etc. for duration of less than three months.

b. Expansion/alteration in the scope of the existing services

- The scope of the life insurance service to be widened so as to bring the services provided by life insurance companies in the area of investment into tax net on the same lines as ULIPs.
- Service provided to the non-members to also fall under the purview of the club or association service.
- Authorized service station service to include the services provided by any person and cover all motor vehicles except those meant for goods carriage and auto-rickshaws as also services of decoration and similar services in respect of vehicles.
- The scope of legal consultancy services to be broadened to include services provided by business entities to individuals as well as representational and arbitration services by individuals to business entities. However, there would be no tax on services provided by individuals to other individuals.
- Commercial training or coaching services to include all the unrecognized courses also within the service tax net.
- In order to remove the differential treatment between persons who make payments themselves and others where payments are made by an insurance company or a business entity, service tax to be imposed on all services provided by centrally air-conditioned hospitals with 25 or more beds and on the diagnostic tests of all kinds.

2. Simplification measures

- Simplified scheme introduced for units in SEZs to enable them to obtain tax-free receipt of services wholly consumed within the zone and to get refunds in a much easier manner.
- A new scheme for the refund of tax paid on services used for export of goods to be introduced shortly on the lines of drawback of duties to overcome the difficulties in the sanction of refunds relating to tax paid on services used for export of goods.
- In export and import rules of services, some of the services which were on performance basis have been shifted to recipient basis while few have been added in the performance based criterion. Service exporters and importers would require to note this change

3. Exemptions

- An abatement of 25% from the taxable value provided under 'Transport of goods through coastal and inland shipping service'.

- Exemption provided to services provided within a port/other port/airport under the 'works contract service' for specified purposes.
- Services related to transportation of goods by road, rail or air when both the original and the destination are located outside India exempted from service tax.
- The rates of service tax on travel by air increased by Rs. 50 in the case of domestic air travel and Rs. 250 on international journeys by economy class. A standard rate of 10% is fixed for domestic travel in class other than economy class.

B. Customs

- The basic customs duty rates of 2%, 2.5% and 3% unified at the rate of 2.5%.
- Special additional duty on the clearances from SEZ to DTA exempted provided they are not exempt from the levy of VAT/sales tax.
- The introduction of 'self-assessment' of duty on imported and export goods by the importer or exporter is a welcome change. Customs officers would now be empowered to verify the self assessment and if required, reassess duty on the imported or export goods. Further, the officers may conduct audit in certain situations. Consequential amendments are proposed in the respective provisions.

C. Central Excise

- The concessional rate of excise duty of 4% on items like prepared foodstuff like sugar confectionary, pastry and cakes; starches etc. increased to 5%.
- Non-Cenvatable excise duty of 1% to be imposed on about 130 specified items. Earlier these items were either fully exempt from excise duty or chargeable to nil rate of excise duty.
- Branded garments to attract excise levy at 105 with CENVAT facility.
- The provisions of sections 11A relating to the recovery of duty not levied, short levied, not paid, short paid or erroneously refunded proposed to be redrafted so as to make them more lucid and coherent.
- Individual and sole proprietor assesseees with a turnover upto Rs 60 lakhs not to be subjected to audit.

Amendments in CENVAT Credit Rules, 2004

- The provisions of the CENVAT Credit Rules, 2004 have been amended with the intent of broadening the tax base and to simplify definitions for reducing the disputes and to achieve a more realistic attribution when common inputs or input services are used for the manufacture of both dutiable and exempt goods in the following manner: -

- The scope of eligible inputs and input services have been more clearly defined so as to minimize disputes in their interpretations.
- Distortions and areas of tax avoidance arising from differential treatment of goods and services used for similar purposes have been eliminated.
- A practical scheme has been provided for the segregation of CENVAT credits used in respect of final products and output services where they are partially exempted with condition that no such credits shall be taken.

These are the first off the cuff highlights prepared immediately after the Budget presentation. Detailed study of the notifications may reveal minor changes and a few more surprises.