Hiregange & Associates
Chartered Accountants

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Highlights

- Possible Changes in Union Budget 2014
- Articles contributed by CA. Madhukar N Hiregange
- Upcoming Event
- In news – union Budget – 2014

Contact:-
Hiregange & Associates
#1010, 1st floor, 26th main,
(Above Corporation Bank)
4th 'T' Block, Jayanagar,
Bangalore 560 041
Website – **www.hiregange.com**

Branch Office:-
"Basheer Villa"
H.No.8-2-268/1/16/B,
2nd Floor, Sriniketan Colony,
Road No.3, Banjara Hills,
Hyderabad-500 034

Newsletter designed, compiled and edited by Rajeshwari S, Srividya S, Vidhya R & Vinayaka N Adiga, Articled Assistants

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Possible Changes in Union Budget 2014

In recent times, the law abiding assesses have to contend with large number of target based queries /notices, audits and summons generally high amount of tax terrorism. Infructuous demands [90-95% bound to fail] in VAT & Service Tax have been observed. These lead to demands and disputes which go on for years. The matters may not be resolved unless matter goes up to the Tribunals, High Courts and many at the Supreme Court. A majority of the demands raised are due to the high revenue targets which are the base for promotions, almost 80% corruption in tax departments and added to that the tax laws being extremely complicated leading to different interpretations and consequent disputes.

At this juncture, when there is a general slowdown in economy and a need for more administrative reforms and transparent tax laws more than ever, the paper writers would like to set out a list of the changes which could be expected from the new Government. The same is discussed under broad headings of Central excise, Service tax and Customs law, GST and CST.

Changes in GST:

Give a time line for GST expected in 2016.

Changes in Central Excise:

1. Reduction in excise duty rates for some goods: Maybe for Capital Goods and non-consumer durables.
2. Increase in rate of the 2 % [without credit] items as well as 6 %[with credit]
3. MRP abatement rates could be rationalized though the time for this government was quite short. Maybe deferred to February 2015.
4. Some major exemptions maybe removed. Garment industry especially the branded garments maybe made liable.

Changes in Service Tax:

Levy:

- ✓ Reintroduce exemptions from service tax when construction /erection /operation / maintenance done for Government/local authorities or for non commercial purposes. This could incentivize the infrastructure sector.
- ✓ Change back to service tax levy on receipt of payment basis by scrapping the joint charge and reverse charge other than from outside India services.

Exemption: No need to pay ST on a transaction when VAT is already applicable and paid as State levy has precedence over Central levy of ST. Example in software/IP.

Possible Changes in Union Budget 2014

Valuation:

- ✓ The service tax to be paid on value of taxable services alone.
- ✓ Not to be paid on value of materials unless it is forming part of services value.

Seamless availment of credits:

"We are looking at the rules," said a government official, indicating that changes could be expected in the budget that's expected to be announced on July 10. A panel set up by the Central Board of Excise & Customs under chief commissioner MK Gupta had suggested sweeping changes in the Cenvat credit rules. It had recommended adoption of the globally-followed practice of giving credit for all input taxes consumed, barring a specific negative list

There has also been restriction of CENVAT credit of duties paid on inputs and input services used for civil construction of factory buildings. The definition of 'input service', which allowed credits on activities related to business, post amendment (from April 2011), has a number of restrictions such as 'services used in relation to setting up' which is omitted. This has lead to following issues:

Capital goods: 100 percent Cenvat credit on capital goods in year of acquisition.

- ✓ **Inputs and input services**: There is a huge cash crunch and the restriction on credits means that when the projects costing is done where ED paid on steel for sheet roofing at rates of 12% on average[for imported its more 10%+12%+4% and cesses], ST paid for new factory buildings/genset / sheds/foundations to WTP plants etc at 5% approx emerges as a major cost component which is passed on to customer.
- ✓ As the construction of infrastructure is necessary for installation and housing of machinery and carrying on of business and manufacturing activities, CENVAT credit of duties/taxes payable for such construction could be allowed.
- ✓ Taxes paid on certain expenses incurred on employees such as cab services, travel, hotel accommodation or insurance to be allowed as a credit.
- ✓ Cenvat credits on services such as canteen, maintenance of commercial vehicles etc..
- ✓ Could go back to old definition of input services.

Refunds:

In TRU letter of 2012 it was mentioned as follows:

1. A simplified scheme for refunds is being introduced by substituting the entire Rule 5 of

Possible Changes in Union Budget 2014

CCR, 2004. **The new scheme does not require the kind of correlation that is needed at present between exports and input services used in such exports.** Duties or taxes paid on any goods or services that qualify as inputs or input services will be entitled to be refunded in the ratio of the export turnover to total turnover.

The refunds are long time coming leading to blocking up of working capital. It is hoped that the Government would implement the promise given in July 12 that all refunds proportionate to exports would be given without having to prove the relation/nexus with exports.

Changes in Customs:

In some cases, the customs duty imposed on raw materials and components is more than that on the finished product. The rates could be rationalized.

Changes in CST:

No change.

In this article the paper writer has sought to cover the changes that could be possible in the Budget 2014. A few more days and all would know.

- CA Madhukar N Hiregange & CA Roopa Nayak

Settlement Commission under CE/ST- A Glimpse

Objective:

An attempt is made to understand the objective of setting up of settlement commission and criteria to decide whether to fight or settle the case by filing an application before settlement commission and important procedural aspects to be followed.

The basic objective of setting up of the Settlement Commission is to expedite payments of Customs, Excise duties & Service Tax involved in disputes by avoiding costly and time consuming litigation process and to give an opportunity to tax payers who might have not paid duty/tax for whatever reasons. Settlement commission can grant waiver/ reduction of penalty, fine and can grant immunity from prosecution to applicant.

Though no one wish to receive the show cause notice, on receipt of show cause notice the assessee has broadly two options to comply.

Firstly, to contest the issue by filing an appropriate reply to the concerned authorities along with supporting documents in support of the arguments. This option can be chosen only if the assessee is under the understanding that they need no pay duty/taxes as proposed in the show cause

notice and the demand is not in accordance with the facts or frame work of concerned legal provisions. The understanding of the assessee should be backed up by legal provisions, expert opinions, decided case laws, circulars and notifications etc. Further this option can also be chosen in case where there is no clarity in the law or expecting some favorable decisions in due course on the similar matters, which are already pending before higher forums.

Secondly, make an application before the settlement commission. This option can be chosen in the cases where there no ambiguity in the law and matters are already settled by way of various decisions or when the assessee has clearly and evidently short paid or not paid the duty/taxes.

Conditions to be satisfied before filing of application

- The applicant has **filed returns** containing details therein;
- A **show cause notice** for recovery of duty/tax has been received by the applicant;
- The additional amount of duty accepted by the applicant in his application exceeds **three lakh rupees**;
- The applicant has **paid** the additional amount of excise duty accepted by him **along with interest**.

It should be noted that these are the cumulative conditions to fulfill. Further the following are the additional conditions to be taken care.

- Application can be filed only if the case is pending before adjudicating authority on the date of application.
- Application to settlement commission shall contain a full and true disclosure of applicant's tax liability which has not disclosed before the department.
- If any assessee or applicant has not filed returns showing service provided and service tax paid in prescribed manner then application for settlement commission cannot be entertained for that period. However there is a decision, which says it is sufficient that returns for one of the periods covered under notice to accept the application.
- Case for which settlement application is filed should not be pending with appellate tribunal or any court.
- Cases which involve issues of interpretation of the classification of services shall not be entertained.

Procedural aspect -

On deciding to make an application before the Settlement Commission, the following procedural aspects are worth noting –

Settlement Commission under Excise/Service Tax - A Glimpse

- The Prescribed format should be used. Viz Form SC (E) – 1 for Excise and Form SC (ST) - 1 for Service Tax.
- The application shall be filed in quintuplicate and shall be accompanied by a fee of Rs. 1000/- under the specific codes viz 00380103 in case of excise and 00441090 in case of service tax. The fee shall be deposited in any of the authorized bank.
- A brief statement of case should be attached explaining, the factual facts of the case and proposition made in the show cause notice and submissions to establish why duty/taxes was not paid for the impugned period.
- This statement of case should be in the nature of pleading and not in the nature of contesting the issue.
- Accept that assessee would extend full co-operation to the concerned Hon. Commission by making true and full disclosure of all the relevant facts so as to settle the case.
- Make a request for admission of case and settle the case as prayed.
- Annexures providing the details of following should be enclosed.
  - ✓ Statement of accepted liability containing details of duty payable and payments including reference and corresponding challans.
  - ✓ Statement interest calculation and payment details and corresponding challans.
  - ✓ Annexure to support and establish their bonafide.
  - ✓ All these document should be self-attested.
- The application shall be addressed to the Secretary at the Headquarters of the Commission at New Delhi or of the Bench within whose jurisdiction. (w.r.t Karnataka, Andhra Pradesh, Kerala and Tamilnadu the bench is set up at Chennai)
- The Application can be filed in person or shall be sent by registered post.
- An appeal shall not be allowed to be withdrawn by the applicant;
- The Commission shall within seven days from the date of receipt of the application, issue a notice to the applicant to explain in writing so as to why the application made by him should be allowed to be proceeded with
- After taking into consideration the explanation provided by the applicant, the Settlement Commission, shall, within a period of fourteen days from the date of the notice, by an order, allow the application to be proceeded with, or reject the application as the case may be, and the

proceedings before the Settlement Commission shall abate on the date of rejection.

- Where no notice has been issued or no order has been passed within the aforesaid period by the Commission the application shall be deemed to have been allowed or to be proceeded with.
- After allowing the application the commission shall proceed to call for report from commissioner of concerned jurisdiction and proceed to examine the records and report and gives an opportunity to the applicant and to the commissioner in person or through the authorized representative.
- The order shall provide for the terms of settlement including any demand by way of duty, penalty or interest, the manner in which any sum due under the settlement shall be paid and all other matters to make the settlement effective and in case of rejection contains the reasons thereof.
- The order of the Commission shall be conclusive.

Conclusion:

As explained, based on the strength of the case, one should think twice and decide about the making application before the settlement commission as there is no option to withdraw the application once it is filed. The major advantage of making an application before the settlement commission is to reduce or to waive the penalty or fee and to grant immunity from prosecution for any offence under respective Acts provided the bench is satisfied that the assesee has extended full co-operation and disclosed full and correct information.

Query email: somshekar@hiregange.com

- Mr. Somshekar Reddy

Count your **Gains**,
Instead of your losses.!
Count your **joys**,
Instead of your woes.!
Count your **friends**,
Instead of your foes.!
Count your **courage**,
Instead of your fears.!
Count your **health**,
Instead of your wealth.!
Count on **God**,
Instead of yourself...!!!

- APJ Abdul Kalam

Valuation of Service Tax in case of Export / Import of Services

Introduction:

We are aware that there has been a drastic change in the service tax law from positive based taxation to the negative based taxation w.e.f. 01-07-2012. Under the old service tax law, the Export of Service Rules, 2005 and Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 governed the taxation aspect of Export / Import of Services. However, w.e.f. 01-07-2012, the said rules has been withdrawn and the Place of provision of service rules, 2012 has been introduced which determines the place of taxable territory which is crucial for liability under service tax. Further, to determine export of services, rule 6A has been inserted in Service Tax Rules, 1994.

There was no specific provisions prevail upto 28.05.2012 , to convert the value of services which is in foreign currency, and the assessee used to consider the value accounted in their books. Further, such value is based on the exchange rate which is normally adopted by the company i.e. may be RBI rate daily rate, RBI weekly / monthly rate, CBEC rate etc.

Introduction of Section 67A:

However, w.e.f. 28-05-2012, section 67A was introduced under the Finance Act, 1994, which reads as follows.

"67A Date of Determination of rate of tax, value of taxable service and rate of exchange – *The rate of service tax, value of a taxable service and rate of exchange, if any, shall be the rate of service tax or value of a taxable service and rate of exchange, as the case may be, in force or as applicable at the time when the taxable service has been provided or agreed to be provided.*

Explanation*: - For the purposes of this section,* ***"Rate of Exchange" means the rate of exchange referred to in the Explanation to section 14 of the Customs Act, 1962"***

Valuation of Service Tax in case of Export / Import of Services

From the above analysis of section 67A of the Finance Act, 1994, it is clear that –

1. This provision is applicable for services provided from India to the Non taxable territory and also for the services received from Foreign Service provider to Indian company which is liable under service tax as per the place of provision of service rules, 2012.
2. Also, this provision is applicable in case if the value for the service has been billed in foreign currency by the Service provider in India even to the domestic service receiver.
3. As per this provision, the assessee requires to consider the Exchange rate which is referred under section 14 of the Customs
4. Act, 1962. Further the CBEC has the power to notify the exchange rates at regular intervals.

Implications of this provision:

1. Normally, the companies, would follow the exchange rate specified by the Reserve Bank of India (may be daily / weekly / monthly) for accounting of the transactions.
2. Accordingly, Service Tax returns is being filed based on the value accounted in the books of accounts.
3. Further, service tax liability under reverse charge is being paid on the values accounted in the books of accounts which are normally based on the exchange rate of the RBI which is generally followed by the majority of the companies.
4. There may be a difference between the Exchange rate published by the RBI and CBEC rate.
5. The above difference may lead to difference in considering values disclosed in the returns for Export of services and also for the values considered for payment of service tax under reverse charge as the companies would consider the value other than CBEC rate.

Valuation of Service Tax in case of Export / Import of Services

6. To illustrate, the exchange rate specified by the CBEC for the period w.e.f. 06th June 2014 for USD for Export is Rs.58.85 whereas the rate as per RBI is Rs. 59.170 leading to difference of Rs.0.35. Accordingly, there is a difference in value adopted as per the books and value requires to be adopted for service tax purpose.

Conclusion:

1. The non adoption of CBEC Exchange rate would lead to nominal variance in payment of service tax on import of services which may be excess / short and also it may lead to wrong disclosures of the export of service values.
2. However, presently, the department is not asking / checking this detail in their audit as the impact would be very minimal and the same is only a procedural lapse.
3. However, there is a chance of department may impose general penalty on the assessee for non following of provisions mentioned under section 67A of the Finance Act, 1994.
4. However, following of provisions of section 67A may lead to system problem, as the company would consider RBI rates for accounting purpose and for service tax they require to follow the CBEC rate and there may be necessity of manual entries for computing the service tax liability in ERP's and the company requires to take additional care in reconciliation of workings between Financials with Service Tax Returns.
5. Accordingly, the paper writer is suggesting the assessee to follow the provisions of section 67A of the Finance Act, 1994, to avoid any objections from the department. However, if it is difficult to follow due to the system problem which is explained above, the assessee, can intimate the department on their method of recognizing the exchange rate for the purpose of service tax and seek the confirmation.

- CA Sriharsha KM

Commissioner Vs Steel Authority of India Ltd

[2012 (283) E.L.T. A112 (S.C.)]

Material facts giving rise to the appeal

1. The Steel Authority of India Ltd. (SAIL) was engaged in the business of mining iron ore from mines.

2. The Department submitted that Steel Authority of India Ltd. (SAIL) was mining iron ore from mines and subjecting the same to crushing, grinding, screening and washing with an aim to concentrate the ores.

3. The Department contended that the mining activity was done by fully mechanized system; that they were mining iron ores from mines and then ores were subjected to process of crushing, grinding and screening and washing with a view to remove foreign materials and to concentrate such ores; that at each stage of washing water is added to improve the flow ability of material by removing the sticky particles and the processes undertaken by them involved removal of parts of foreign material from the ores and increase the “Fe” content (i.e. iron content); thus goods so obtained by such process would qualify as concentrate and held that the process undertaken by them is amounting to manufacture.

4. The SAIL submitted that the washing of iron ore by itself could never convert it into concentrates and that washing by itself did not amount to manufacture. The SAIL also contended that the concentrates were manufactured by increasing the concentration of Fe content of the mineral by removing and separating different impurities; that concentrates were manufactured by enriching the material in terms of its Fe content; that under this process, raw iron ore of low Fe content was ground to very fine consistency and passed through various processes for making concentrates; that in the present matters neither they undertook any such process nor there was any variation in the Fe content of iron ore extracted from its mines and the Fe content of seized iron ore and contended that the activity performed by them is not amounting to manufacture.

5. The Hon’ble Kolkata CESTAT has held that the process undertaken by the assessee is not amounting to manufacture and dismissed the appeal filed by the department based on the following findings.
    a. Relied on the decision of UOI Vs Delhi Cloth & General Mills 1977 (1) ELT (J 199) SC

Commissioner Vs Steel Authority of India Ltd [2012 (283) E.L.T. A112 (S.C.)]

b. JG Glass Industries Ltd Vs UOI 1998 (97) ELT 5 (SC)

5. No new commodity emerges from the activity undertaken by the assessee as the chemical structure of the ore remained the same and the processes are not any special treatment which could take the ores out of the stage of plain and simple ores.

6. Relied on the decision of Super Engineering Co. 1996 (82) ELT 539 and also on the decision of Seth Liladhar Biyani & Sons V CCE, Jaipur 2001, 129 ELT 423 (T) and accordingly held that the process undertaken by the assessee not amounts to manufacture and accordingly, rejected the appeal filed by the department.

Analysis and Decision of Supreme Court

The Hon'ble Supreme Court was pursued the show cause notice, reply filed by the assessee and decision of the first appellate authority as well as the CESTAT and based on the same agreed that the decision of the Hon'ble CESTAT is valid and rejected the appeal filed by the department.

Indian oxygen Ltd. Vs Collector of CE - 1988 (36) E.L.T 723 (S.C.)

Question of law

Whether Excise duty is leviable on loading & unloading charges, transportation charges with margin delivery and collection charges are to be includable for discharging excise duty as per section 4 of the Central Excise and Salt Act, 1944?

Material facts giving rise to the appeal

- ✓ The appellants are manufacturers of manufactures compressed Oxygen and dissolved acetylene falling under Tariff item No. 14H of the First Schedule of the Act.
- ✓ These are sold from the factory of the appellant at Visakhapatnam and also from their depot/service centres at Vijayawada, Rajamundry, vadlapudi, Jeypore and Daman-jodi.
- ✓ The appellants selling their products to Government undertakings as per the rates determined by DGS&D,. In respect of other customers, the appellant sell their products at various prices on slab basis.
- ✓ Apart from the declared price list, the appellant collected Delivery and Collection charges, Cylinder deposit and Rental charges
- ✓ The above charge, collected in addition to the transaction value was not disclosed in the declaration list submitted to the department.

Indian oxygen Ltd. Vs Collector of CE - 1988 (36) E.L.T 723 (S.C.)

- ✓ The department alleged that the above charges requires to be included for the purpose of discharging central excise duty to the department.

Arguments taken by the department

- ✓ The department held that in case of clearances made from the depot, there is a requirement to add amount charged for delivery & collection charges, cylinder deposit and rentals for the finished products which has been cleared from the depots.
- ✓ No such deduction available under the provision of central excise to claim such deductions.

View of the Tribunal in this regard

- ✓ Price at factory gate was ascertainable to the assessee and accordingly held that assessment requires to be done based on the assessable value which can be ascertainable at the factory gate.
- ✓ Further, it is held that there was no scope of deduction from that price.
- ✓ Further, held that if ex-factory price is unascertainable, then goods should be assessed ex-depot, then the manufacturer can claim the deduction for the above expenses subject to submission of documents and remanded the matter to the Assistant collector to refix the assessable value as per above.
- ✓ Incase of loading charges Incurred for loading the goods within the factory are concerned, they are to be included in the assessable-value, irrespective of who has paid for the same but the loading expenses incurred outside the factory gate are excludible and further it held that central excise duty is a duty on the manufacture of the goods and not on the profit made by the assessee on the transportation of goods.
- ✓ Tribunal noted that, appellant has not come forward to offer concrete evidence of actual freight charges that he has collected, hence there was no scope of deduction from that price.

Decision of the Supreme Court

- ✓ Place of removal u/s 4(4)(b) has been defined to mean a factory or any other place or premises wherein the excisable goods or a warehouse or any other place or premises are removed.
- ✓ Relied on the decision of UOI & Others etc. v. Bombay Tyre International Ltd. etc. 1983(14) E.L.T. 1896 (S.C.) = 1981 S.C.R. 347. If the ex-factory prices were not ascertainable and the goods were to be assessable ex-depot, then it would be for the manufacturer to claim on the basis of actual evidence of the deductions should be admissible from the price list as per the provisions of the Act and accordingly, modified the order of the CESTAT.

- Mr. Venkatanarayana G M

Impact of Freight in valuation – CST & K-VAT

In the previous month, we have seen the impact of freight under Central Excise. This time let us understand the treatment of transportation cost in the context of Central Sales Tax and Karnataka Value added Tax.

Freight treatment under Central Sales Tax Act, 1956

Under Central Sales Tax Act, 1956, every dealer shall be liable to pay the tax on all sale of the goods effected during the course of inter-state trade or Commerce.

As per Section 2 (j) of the Act 'turnover' means, "Aggregate of the 'sale price' received or receivable by the dealer. Section 8A (1) of the Act provides deduction for CST payable. Therefore dealer is liable to pay CST on value of 'Sale price'".

Definition of sale price as per sec 2 (h) is in two parts. The first part says that the sale price means the amount payable to a dealer as consideration for the sale of goods. The second part is inclusive clause, which says that sales price includes any sum charged for anything done by the dealer in respect of goods at the time of or before delivery thereof other than the cost of freight or delivery, or the cost of installation where such cost is separately charged in the invoice.

Thus, Freight is includible only if

a) Freight is not shown separately in invoice.
b) Contract is for sale FOR destination and property in goods is transferred only at the destination.

In case of Hindustan Sugar Mills Ltd (1979) 43 STC 13 (SC) honorable Supreme Court has envisaged three situations:

1. When the price is at factory gate : Tax is not payable on freight

2. In case of contract for sale is FOR destination, where dealer is under the obligation to put the goods on road/rail and pays freight up to destination, freight will have to be included for CST purposes.

3. When the price is for FOR destination but contract does not have all the ingredients for FOR destination railway contracts, and then if the risk of the purchaser starts as soon as goods are loaded in rail, then railway becomes agent of the purchaser. In such case freight will be allowed as deduction for the purposes of CST.

Impact of Freight in valuation – CST & K-VAT

Deduction only when freight is incidental to sale:

Freight and delivery charges allowable as deduction are only those which are incidental to sale. Thus, in case of sale of goods from depot, transport charges from factory to depot will not be allowed as deduction as these are incurred prior to sale {Dyer Meakin Breweries Ltd., (1970) 3 SCC 253, 26 STC 248 (SC).

Treatment of freight incurred from Factory to depot:

In case of stock transfer, freight from factory to depot is responsibility of dealers and not of buyers. Thus freight charges from factory to depot are includible in turnover for sales tax even if shown separately in invoice {Avon Elastomers (2008) 16 VST 510 (All HC) and Agarwal Mandi Janta Ent Nirmata (2008) 16 VST 527 (All HC).

Further, It is essential that, dealer has to show the freight separately in the tax invoice. Failure to do so will attract CST on the freight as well. In case of "CIT Vs Indian Aluminium (1999) 115 STC (444)", it was held that, If the dealer is unable to show the freight separately, even the department cannot give the deduction on notional basis.

In contract for sale FOR destination, dealer is under an obligation to deliver the goods at buyer's destination and property in goods passes only at the buyers destination in such scenario dealer is required to discharge the CST on value of the freight as well.

In short:

In cases where freight and transportation charges incurred are at the time of or before delivery, deduction is not permitted for such expenses even though the freight is separately shown in the invoice. Further wherever it is the responsibility of the dealer to incur freight (such as transportation from the factory to depot /stock transfer) freight will form part of assessable value.

Freight treatment under Karnataka Value Added Tax Act, 2003

Every Dealer who is required to be (or is) registered under the provisions of K-VAT Act, 2003 shall be liable to pay tax, on his taxable turnover.

As per Sec 2 (34) taxable turnover is the total turnover (after allowed deductions) on which a dealer shall be liable to pay. Further if we see the definition of turnover, it is nothing but the

Impact of Freight in valuation – CST & K-VAT

aggregate amount for which goods are sold for a valuable consideration and it also covers any sums charged for anything done by the dealer in respect of the goods sold at the time of or before the delivery there of.

The term sale also defined in Act (Sec 29) where in, it considers every transfer of property in goods by one person to another in the course of trade or business for any valuable consideration with certain exclusions and specific inclusions.

Since there is no specific entry for treatment of freight in the valuation provisions under K-VAT law, the decisions of the judicial authorities are crucial in this matter.

In case of The Karnataka State Forest Industries Corporation Ltd vs Deputy Commissioner of Commercial Tax, honorable Karnataka High Court held that " When the transfer of Property in goods is to be at the place of buyer to which seller is under an obligation to transport goods, the expenditure incurred by the seller on the freight in order to carry the goods from his place of manufacture to the place at which he is required under the contract to deliver, would become the part of the amount for which the goods are sold by the seller to the buyer and would fall within the scope of 'turnover'.

In other way whenever the transfer of property in goods are transferred to buyer at the place of seller itself the expenses incurred after such transfer like freight and transit insurance may not form part of the turnover, thereby it stands out of the purview of sales tax.

Conclusion:

The levy is the basis for charge in any taxation laws in that matter. The charging section read with valuation rules issued under the respective acts will decide whether a particular item is to be included or to be excluded from the tax purview. With that basis, in case of Excise, service tax and sales tax, the activity of manufacturing, service and the sale plays fundamental role in determining the impact of respective tax on transportation expenses incurred by the assessee.

- **Nagendra Hegde**
- **Vetted by CA. Mahadev R**

Winners don't do different things, They do things differently…!!

Rates of tax on sales in course of interstate trade or commerce

- ✓ **Section 8 (1)** - The seller who sells goods to a registered dealer in course of interstate trade or commerce shall be liable to pay tax at the rate of 2% of his turnover or at the rate applicable inside the dealer's state whichever is lower. These rates are applicable only to goods which would get covered in Section 8(3). Earlier to 01.06.2008, the rate of tax was 3%.

- ✓ **Section 8 (2)** – The seller who sells goods to a unregistered dealer then he shall be liable to pay the tax at the rate applicable inside the dealer's state. For example, if a dealer in Karnataka sells furniture to unregistered buyer outside Karnataka, the rate applicable would be 14.5% presently. However, if local rate is 1 or 2% in Karnataka, then such rate only would be applicable if goods are sold to such unregistered buyer.

- ✓ **Section 8(3)** - The goods which are eligible for concessional rate as per Section 8(1) are those goods which are covered in registration certificate of purchasing dealer. Again these goods are:
  - ➢ Intended for re-sale, for use in manufacture or processing of goods for sale, in telecommunications network or in mining or in generation or distribution of electricity or any other form of power
  - ➢ Containers or other materials being used for packing of goods for sale
  - ➢ Therefore, goods like building materials, vehicles, furniture and others for office use would not be eligible for the benefit unless they are for re-sale.
  - ➢ The term manufacture or processing has not been defined in the CST law. Therefore, we could rely on excise law to some extent to understand these terms.

- ✓ **Section 8 (4)** – The benefit of concession rate as per Section 8(1) shall be allowed only if the prescribed form i.e Form C is furnished by selling dealer to tax authorities. Form C shall be issued by purchasing dealer to selling dealer

- ✓ **Section 8(5)** – The state government shall have the powers to specify goods on which no tax or reduced tax shall be payable if Form C is submitted.

- ✓ **Section 8(6)** – The dealer need not pay the tax if the goods are sold to SEZ unit or

developer as per this Section. However, these goods be for the purpose of processing, assembling, repairing, reconditioning, re-engineering, packaging or for use as packing materials or packing accessories in a unit located in any SEZ or for development, operation and maintenance of SEZ.

- ✓ Section 8(7) – The benefit of exemption for sales to SEZ unit or developer would be available for goods which are covered in registration certificate of such buying SEZ unit or developer.

- ✓ Section 8(8) – The benefit of exemption to SEZ unit or developer available only if Form I is submitted by selling dealer. SEZ unit or developer shall issue Form I to selling dealer.

Determination of turnover

- ✓ Section 8A (1) (a) – The dealer can determine the tax amount applying the following formula –

$$\frac{\text{Rate of tax} * \text{Aggregate of sales prices}}{100 \text{ plus rate of tax}}$$

- ✓ This amount can be claimed as deduction.
  - ➢ This formula could be applied by the dealer when tax is not collected/tax not shown separately in invoice. If tax is separately collected, then such tax amount could be claimed as deduction. This was held even in case of State of AP v. GV Raman Laxman (1998) 109 STC 383 (Madras HC).

- ➢ It is also important to note that onus is on the selling dealer to prove that his sales price is inclusive of tax. Otherwise, the tax would be payable on net price indicated.

- ➢ Section 8A (1) (b) – The deduction can be claimed of sale price of all goods returned to dealer within 6 months from the date of delivery of goods. Point to be noted is that 6 months is computed from date of delivery and not date of invoice.

- ➢ However, for the purpose of claiming deduction satisfactory evidence of return of goods shall be available.

- CA Mahadev. R

For more information on Indirect Tax,

Please visit:

http://www.icai.org/post.html?post_id=6624

Journey of thousand miles

begins with a single step..!

Training Page

Information for better performance

With the objective of holistic learning, we have come up with the training modules.

Training Program for Chartered Accountants Firms:

This program would be conducted to enlighten and empower the Practicing Chartered Accountants in conducting the statutory, internal & tax audits wherein value additive suggestions to clients may get appreciation. This will be conducted at the respective offices of Chartered Accountants by qualified and skilled staff of Hiregange & Associates.

Program Highlights

- Focus on impact of indirect taxes during statutory audit, internal audit and other areas of practice
- To enlighten and empower the Practicing CAs in the field of Indirect Taxation
- Program will be conducted at your respective offices
- Topics for the program will be of your selection from the proposed modules
- Programs will be conducted by qualified and experienced staff of Hiregange & Associates

Who are eligible for the program

• Chartered Accountant company/firms at Bangalore who do not currently practice in the field of Indirect Taxation

• Chartered Accountant company/firms at Bangalore who wish to enter the field but with sound fundamental knowledge of the subject or add this competency

Proposed Modules are:-

- Major aspects to be checked in the Statutory Audit, Internal Audit, Tax Audit having implications under indirect tax (IDT). How to provide Value Addition to the auditee in Statutory/Internal Audit with respect to IDT
- Impact of Joint and Reverse Charge
- How to fill Central Excise Returns & ST returns
- Reconciliation between Excise/Service Tax returns to financials and other statutory returns.
- Common errors made by assessee in Central Excise/Service Tax.
- Introduction on Central Excise viz. –Concept of manufacture, Levy of Excise duty, Classification of goods, Exemption, Valuation Implication, Exports.
- Introduction on Service Tax viz.-Negative List, Levy of Service Tax, Exemption, Valuation aspects, Point of Taxation Rules, Place of Provision of Service Rules and Aspects related to filing of Returns. This training conducted at Balakrishna and Co., Guru & Jana, Vasan & Sampath and B S Ravikumar & Associates, as we understand, useful in their audit compliance of IDT aspects substantially.

Training Page

Information for better performance

Corporate Training

This is for specific clients in specific areas such as Basic Accounting, Tax Planning and Impact of Indirect Taxes in their day-to-day working. This program would be conducted to enlighten and empower the finance team of the company in the field of Indirect Taxation.

Our approach

We have devised two approaches to this programme.

- To conduct it at H&A premises fortnightly (on Saturdays)
- To conduct it at your respective office (on the date and time mutually agreed)

Program Highlights

- Focus of indirect taxes in the effective day-to-day working.
- Use of case studies and practical aspects
- To enlighten and empower our Clients in the field of Indirect Taxation
- Topics for the program will be of your selection from the proposed modules
- Programs will be conducted by qualified and experienced staff of Hiregange & Associates

Who are eligible for the program :

The Indirect Taxation Training Programs are exclusively for the Clients of Hiregange & Associates.

Proposed modules

- Introduction on Central Excise
- Introduction on Service Tax
- Point of Taxation Rules
- Availment of credit under Central Excise/Service Tax & VAT
- Impact of indirect tax on cost
- Means of ensuring maximum credit (CE/ST/VAT)
- Accounting entries in Indirect Tax
- Impact of Joint and Reverse charge to the entity
- Filling of Excise Returns
- Filling of New format of Service Tax returns
- Common errors under Central Excise and Service Tax
- Preventive measures to avoid common errors
- Strengthening Internal Control with respect to Indirect Taxation
- Reconciliation between Excise / Service Tax return with financials and other statutory returns
- Place of Provision of Service Rules
- How to make a refund application?

For further information please contact

Mr T.V.Gopinath - +91 9620116163

Email: gopinath@hiregange.com

Mr Praveen K - +91 9900068915

Email: praveen@hiregange.com

Specific assistance in FTP

The benefits extended to all the exporters in the field of FTP are by the way of services in the following areas-

- ✓ Special Focus Initiatives
- ✓ Focus Market Scheme (FMS)
- ✓ Focus Product Scheme (FPS)
- ✓ Status holder Incentive Scrip
- ✓ Advance Authorisation Scheme

Student Corner

Topics	Click the link
LMS – Study any time – E learning	http://studentslms.icai.org/
CA Student Journal	http://www.icai.org/post.html?post_id=6894

Articles contributed by CA. Madhukar N Hiregange

Topics	Click the link
What Material- Purchase need to know of IDT?	http://www.taxmanagementindia.com/visitor/detail_article.asp?ArticleID=5640
Job Work under Central Excise & Service Tax	http://www.taxmanagementindia.com/visitor/detail_article.asp?ArticleID=5656
Service Providers - Input Credit Availability?	http://www.taxmanagementindia.com/visitor/detail_article.asp?ArticleID=5657

Knowledge Portal

Topics	Click the link
LIVE WEBCAST- Highlights of Tax Proposals of Union Budget, 2014-15	http://icaitv.com/live/icai100714/

In news – Union Budget - 2014

Well done is better than, well said. Time to change rhetoric into action..!!

The much awaited budget, so considered to be a landmark one, will be presented on the 10th of July 2014. After having consecutive budgets of mediocrity, the current budget is expected to bring about enormous changes, and hence is considered to be a landmark budget..!

Will Mr. Arun Jaitley, the Finance Minister fulfill the expectations of the Society at large..!? Well, we have to wait for 10th July for the answer..! So, watch out for the changes that the present budget brings with it and convert such changes into opportunities..!

An empowerment initiative – Hiregange Academy

Knowledge is not Power..! Knowing a concept is only potential value. The execution of knowledge is where the power lies..!!

The need is mutual for both the industry and the Job aspirants i.e., the industry requires well-trained executives and the Job aspirants require good exposure. But there is something that is lacking in both the Job- aspirants and the industry. The Job-seekers, despite of being well educated, are not well trained.

Hence, Hiregange Academy has taken a step forward to bridge the gap between the Industry and the Job- aspirants. The knowledge inputs, guidance, specific training and appreciation of common problems and solutions, real life case studies and some technology exposure would ensure enhanced employability of the youth and enhance the quality of already employed. For the industry, "the right resources for the right job" can be achieved.

We aim to provide a win-win-win situation for the Job seekers, employers and employees while being a contributor to the nation at large

- Prakruthi S

Upcoming Events

Happiness multiplies when shared. So please accept our humble invitation and join us as we inaugurate our training Centre with all the exuberance and joy...!!

We are also conducting a seminar on "The Budget Analysis 2014 – 15". So, join us as we analyze the effects of – "The Budget 2014-15"

Brochure attached below for further reference

Inaugural of
Hiregange Academy
Empowering Knowledge & Employability

&

A Seminar on
Budget Analysis 2014-15

DATE : 19th July 2014
TIME : 9.00 AM
VENUE : DAPM-RV Dental College, CA # 37, 24th Main, JP Nagar 1st phase, Bangalore-560078

Every accomplishment starts with a decision to begin...!!

A step towards excellence is taken, through establishing a knowledge sharing institute in "Hiregange Academy"

Happiness multiplies when shared. So please accept our humble invitation and join us as we inaugurate our training centre with all the exuberance and joy...!!

We are also conducting a seminar on The Budget Analysis 2014 - 15 so as to ensure clarity on the current changes in the budget, the impact of such changes on the industry , so please join us as we combine
Jubilation with Knowledge sharing..!

-Jayashree Madhukar Hiregange
- Rajanna H V
- Gopinath T V

About the Seminar

The only thing constant in this world is "Change". To sustain in this competitive world, one must not only be well aware of the changes, but also ensure to convert such changes into oppurtunities.!

After having consecutive budgets of mediocrity, the current budget is expected to bring about enormous changes, and hence is considered to be a **landmark budget..!**

The secret of success for a man is to be ready for his oppurtunity when it comes.! So, here is an oppurtunity to gain clarity on the current changes in budget, the impact of such changes on the industry etc., to the extent possible.

Things turn out the best for those who make the best of the way things turn out.! So, join us as we analyze the effects of – **"The Budget 2014-15"**

The Schedule for the day

Session	*Start Time*	*Mins*	*Topic*	*Speaker*
	9 AM	*60*	**Hiregange Academy – Inaugural**	
	10 AM	**30**	**Break**	
I	*10.30 AM*	**80**	**Changes in Income Tax for Individuals & Corporates**	**CA Prashanth G.S.**
		10	**Questions & Answers**	
II	**12 Noon**	**60**	**Changes in Service Tax**	**CA. Rajesh Kumar T.R.**
	1 PM	**60**	**Lunch**	
III	**2 PM**	**60**	**Changes in Central Excise, Customs and CST**	**M.S. Nagaraja, Adv.**
	3 PM	**15**	**Tea**	
IV	**3.15 PM**	**60**	**Impact of changes in IDT on Various industry and service sectors**	**CA Madhukar Hiregange, CA Rajesh Kumar T R, & M.S. Nagaraja, Adv**
V	**4.15 PM**		**Open house**	

The Grand Inaugural coupled with a knowledge-sharing programme. (No delegate fee) All are invited..!

<u>Vehicles parking available at:</u> Durga parameshwari temple Grounds Opp. RV Dental college.

Featured Speakers

CA Prashanth G.S. – A CA practicing in the field of direct taxes and is mainly involved in search and survey matters, corporate taxation, international taxation, direct tax planning and handling litigation & representation matters at various levels. He has presented a number of papers on direct taxes in various seminars, conferences and other professional platforms.

CA Rajesh Kumar T. R. - Apart from being a Chartered Accountant, he is a graduate in Law. Involved in providing strategic indirect tax consultancy and representation services. Also written many articles and authored many books.

CA. Madhukar N. Hiregange: – Mentor for many CAs in the field of indirect taxes. He is interested in making the tax law in India simple, certain and transparent and also education of lesser privileged. He believes in "value based practice and life".

M.S. Nagaraja :- Advocate, is a post graduate in Science, holds a Diploma in Personnel Management and a Law Graduate. He was in government service for over 20 years, and has been practicing in the field of indirect taxes for nearly 15 years.

For more details, contact:
T V Gopinath
Mobile: 9620116163
Phone: 080-26536404
Web: www.hiregangeacademy.com
E-Mail id: gopi@hiregangeacademy.com