MAJOR INDIRECT TAX PROPOSALS IN UNION BUDGET 2014-15

A. REVIEW OF THE NEGATIVE LIST OF SERVICES (REF NOTIFICATION NO 06/2014)

- ✓ Service tax leviable currently on sale of space or time for advertisements in broadcast media, namely radio or television, has been extended to cover such sales on other segments like online and mobile advertising.

- ✓ Sale of space for advertisements in print media, however, would remain excluded from service tax. Print media is being defined in service tax law for the purpose.

  New Clause (39a) Sec 65B inserted "print media" means,"book" as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867, but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;
  "newspaper" as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867;';

- ✓ *Service tax to be levied on the services provided by radio taxis or radio cabs, whether or not air-conditioned. The abatement presently available to rent-a-cab service would also be made* available to radio taxi service, to bring them on par.

  Radio taxi has also been defined under Notification 25/2012 under clause (za) "Radio taxi" means a taxi including a radio cab, by whatever name called which is in two way radio communication using a central control office and is enabled for tracking using Global positioning system (GPS) or General packet (GPRS)

B. REVIEW OF GENERAL EXEMPTIONS EXTENDED UNDER NOTIFICATION NO. 25/2012-ST IN EXERCISE OF POWERS CONFERRED UNDER SECTION 93(1) OF THE FINANCE ACT, 1994

- ✓ Exemption extended to clinical research on human participants is being withdrawn.
- ✓ Exemption extended to air-conditioned contract carriages like buses is being withdrawn.

C. RATIONALIZATION OF GENERAL EXEMPTIONS EXTENDED UNDER NOTIFICATION NO. 25/2012-ST IN EXERCISE OF POWERS CONFERRED UNDER SECTION 93(1)

- ✓ Exemption in respect of services provided to Government or local authority or governmental authority, will be limited to services by way of water supply, public health, sanitation conservancy, solid waste management or slum improvement and up-gradation.

- ✓ **EDUCATIONAL INSTITUTIONS :** At present, all services provided by educational institutions [providing educational services specified in the negative list] to their students, faculty and staff does not attract service tax; this will continue. However, in respect of services received by such educational institutions, presently, exemption is being operated through the concept of 'auxiliary educational services'. Doubts have been raised and clarifications have been sought regarding the scope and meaning of 'auxiliary educational services'.

To bring clarity, it is proposed to omit the concept of 'auxiliary educational services' and specify in the notification, the services which will be exempt when received by the educational institutions. Accordingly, in respect of services received by an eligible educational institution: (i) transportation of students, faculty and staff; (ii) catering service including any mid-day meals scheme sponsored by the Government; (iii) security or cleaning or house-keeping services in such educational institutions; and (iv) services relating to admission to such institution or conduct of examination, are being exempted from service tax. In view of this rationalization, exemption extended so far in respect of renting of immovable property service received by educational institutions, stands withdrawn.

- ✓ Exemption available to accommodation services provided by hotels, dharamshalas or ashrams when they provide rooms for less than Rupees One Thousand per day, is being re-worded to bring out the intent clearly.

D. NEW EXEMPTIONS

- ✓ Life micro-insurance schemes for the poor, approved by IRDA, where sum assured does not exceed Rupees Fifty Thousand to be exempted from service tax.
- ✓ Transport of Chemical fertilizer, organic manure by vessel, rail or road (by GTA) is being exempted.
- ✓ Loading, unloading, packing, storage or warehousing, transport by vessel, rail or road (GTA), of cotton, ginned or baled, is being exempted.
- ✓ Services provided by common bio-medical waste treatment facility operators to clinical establishments are being exempted.
- ✓ Specialized financial services received by RBI from global financial institutions in the course of management of foreign exchange reserves, e.g., external asset management, custodial services, securities lending services, etc. are being exempted.
- ✓ Services provided by Indian tour operators to foreign tourists in relation to a tour wholly conducted outside India are being exempted.
- ✓ New exemptions will come into effect immediately ,i.e.11.7.2014.

E. RETROSPECTIVE EXEMPTION:

- ✓ Service provided by Employees' State Insurance Corporation (ESIC) during the period prior to 1.7.2012 to be exempted from service tax.

F. SERVICE TAX ON SERVICE PORTION IN WORKS CONTRACTS – RATIONALIZATION (NOTIFICATION NO 11/2014)

- ✓ In Rule 2A of the Service Tax Valuation Rules, category 'B' and 'C' of works contracts proposed to be merged into one single category which includes works contract entered into for repairs, maintenance , servicing, installation of electrical fittings etc. Service tax will be charged on 70% of the total amount charged. This change will come into effect from 1st October, 2014.

MAJOR INDIRECT TAX PROPOSALS IN UNION BUDGET 2014-15

G. SERVICE TAX ON TAXABLE PORTION IN RESPECT OF TRANSPORTATION SERVICE BY VESSELS:((NOTIFICATION NO 8/2014)

- ✓ Taxable portion in respect of transport of goods by vessel to be reduced from 50% to 40%. Effective service tax will decrease from the present 6.18% to 4.944%. This will come into force from 1st October 2014.

H. COMPLIANCE ENHANCEMENT (NOTIFICATION NO 12/2014)

- ✓ DELAY IN PAYMENT OF SERVICE TAX : Simple interest rates per annum payable under section 75, to vary on the basis of extent of delay in payment of service tax. This will come into force on 1st October 2014.

EXTENT OF DELAY	RATE OF PENAL INTEREST PER ANNUM
Upto Six Months	18%
From Six months upto One year	24%
From one year and above	30%

I. SERVICE TAX RULES (NOTIFICATION NO 9,10/2014)

- ✓ Service provided by a Director to a body corporate to be brought under the reverse charge mechanism; service receiver, who is a body corporate will be the person liable to pay service tax.
- ✓ Services provided by Recovery Agents to Banks, Financial Institutions and NBFC to be brought under the reverse charge mechanism; service receiver will be the person liable to pay service tax.
- ✓ Every person shall be required to electronically pay the service tax except with prior approval of Assistant or Deputy Commissioner from 1st Oct,2014.

J. PLACE OF PROVISION OF SERVICES RULES(NOTIFICATION NO 14/2014)

- ✓ Provision for prescribing conditions for determination of place of provision of repair service carried out on temporarily imported goods, to be omitted.
- ✓ Intermediary of goods to be given the same treatment as is given to intermediary of services.
- ✓ Vessels (excluding yachts) and aircraft to be excluded from Rule 9(d); hiring of vessels or aircrafts, irrespective of whether short term or long term, will be covered by the general rule, which is place of location of the service receiver.

  [The above changes to have effect from 1st October 2014]

K. POINT OF TAXATION RULES (Notification no 13/2014)

- ✓ In case of Reverse charge services, to bring certainty in the determination of point of taxation, it is proposed to provide that point of taxation will be the payment date or first day after three months from the date of invoice, whichever is earlier. The amended point of taxation will apply to invoices issued after 1st October 2014.

- ✓ A transition rule 10 is also proposed for invoices issued before 1st October,2014 which states, if payment is made within six months then the point of taxation is the date of payment else it may be determined as per amended rule 7.

L. ADVANCE RULING APPLICABLE TO RESIDENT PRIVATE LIMITED COMPANIES

- ✓ Advance ruling can now also be obtained by Resident Private limited companies. Earlier this was applicable to Non residents or residents setting up joint venture in collaboration with Non residents.

M. SIMPLIFICATION OF PARTIAL REVERSE CHARGE MECHANISM

- ✓ In renting of motor vehicle, portion of service tax payable by service provider and service receiver will be 50% each. This will come into effect from 1st of October 2014.

N. SEZ – PROCEDURAL SIMPLIFICATION [CHANGES TO HAVE IMMEDIATE EFFECT]. (NOTIFICATION NO 7/2014)

- ✓ To be provided that the Central Excise Officer would issue Form A-2, within fifteen days from the date of receipt of Form A-1.
- ✓ Exemption would be available from the date when list of service on which SEZ is entitled to upfront exemption is endorsed by the authorised officer of SEZ in Form A-1, provided Form A-1 is furnished to the jurisdictional Central Excise Officer within fifteen days of its verification. If furnished later, exemption would be available from the date on which Form A-1 is so furnished.
- ✓ Pending issuance of Form A-2, exemption will be available subject to condition that authorization issued by the Central Excise officer will be furnished to service provider within a period of three months from provision of service.
- ✓ As regards services covered under reverse charge, the requirement of furnishing service tax registration number of service provider shall be dispensed with.
- ✓ A service shall be treated as exclusively used for SEZ operations if the recipient of service is a SEZ unit or developer, invoice is in the name of such unit/developer and the service is used exclusively for furtherance of authorized operations in the SEZ.

O. CENVAT CREDIT

- ✓ **Service tax paid under full reverse charge:** the condition to pay invoice value to the service provider for availing credit of tax paid, to be omitted [change to have immediate effect].

- ✓ **Re-credit of Cenvat credit reversed on account of non-receipt of export proceeds** within the specified period, to be allowed, if such export proceeds are received within one year from the specified period on the basis of documentary evidence of receipt of payment [change to have immediate effect].
- ✓ **Rent-a-cab operator and tour operator:** service tax paid by sub-contractor in the same line of business would be allowed as eligible credit to the main service provider to avoid double taxation, subject to certain conditions [with effect from 1st October 2014]. Refer amendment in Notification No.26/2012-ST.
- ✓ **GTA service:** service receiver may avail abatement, without having to obtain non-availment of Cenvat Credit certificate from service provider [change to have immediate effect]. Refer amendment in Notification No.26/2012- ST.
- ✓ **Time limit for taking credit on input and input services:** credit shall be taken within six months from the date of the invoice or challans or other documents specified [change to have effect from 1st September, 2014].

P. CERTAIN OTHER AMENDMENTS IN CHAPTER V OF THE FINANCE ACT, 1994

- ✓ Under section 67A, for determination of rate of exchange, rules to be prescribed. Earlier Rates of Foreign exchange were taken as per Customs Act.
- ✓ Section 73 to be amended to prescribe time limit for completion of adjudications; time limit to be followed, as far as possible.
- ✓ Reference to first proviso to sub-section (1) of section 78, in section 80, to be omitted. In case of serious offences, waiver of penalty not to be available, though details may be available in records.
- ✓ Section 82(1) to be amended, along the lines of section 12F (1) of the Central Excise Act, so that Joint Commissioner or Additional Commissioner or any other officer notified by the Board can authorize any Central Excise Officer to search and seize.
- ✓ Section 83 to be amended to include a reference to sections 5A (2A), 15A and 15B of the Central Excise Act : (a) Section 5A(2A) prescribes that insertion of an explanation in notifications/orders within one year shall have the effect as if it had always been part of the notification; (b) Section 1 5A is being inserted in the Central Excise Act to prescribe that specified third party sources shall furnish periodic information in the manner as may be prescribed; (c) Section 15B is being inserted in the Central Excise Act to prescribe that failure to provide information under section 15A would attract penalty.
- ✓ Vide section 83, **Section 35F of the Central Excise Act** is already applicable to service tax. Section 35F of the Central Excise Act is now being substituted with a new section which prescribes a mandatory fixed pre-deposit of 7.5% of the duty demanded or penalty imposed or both, for filing appeal before the Commissioner (Appeals) or the Tribunal at the first stage and 10% of the duty demanded or penalty imposed or both, for filing the second stage appeal before the Tribunal. The amount of pre-deposit payable would be subject to a ceiling of Rs.10 Crore. All pending appeals/stay applications would be governed by the statutory provisions prevailing at the time of filing such stay applications/appeals. When the amended section 35F in the Central

Excise Act comes into force, it would, mutatis mutandis, apply to service tax by virtue of section 83 of the Finance Act, 1994.

- ✓ Sub-section (6A) of section 86 proposed to be amended to omit the words "for grant of stay or".
- ✓ In section 87, power to recover dues of a predecessor from the assets of a successor purchased from the predecessor, is to be provided, as it is available in section 11 of the Central Excise Act.
- ✓ Section 94 to be amended to obtain rule making power (a) to impose upon assessees, inter alia, the duty of furnishing information, keeping records and making returns and specify the manner in which they shall be verified; (b) for withdrawal of facilities or imposition of restrictions (including restrictions on utilization of CENVAT credit) on a service provider or exporter, to check evasion of duty or misuse of CENVAT credit; and (c) to issue instructions in supplemental or incidental matters.