BUDGET HIGHLIGHTS – INDIRECT TAXES

CENTRAL EXCISE

Rate of excise duty

Education Cess and Secondary & Higher Education Cess leviable on excisable goods fully exempted. Further, standard ad valorem rate of excise duty increased from 12% to 12.5%.

Amendments in the Central Excise Act, 1944

1. Section 11A proposed to be amended to provide as follows:
   (i) category of cases where extended period of time applies but the transactions are recorded in the specified record, to be removed from the statute,
   (ii) provision relating to relevant date also amended to provide definition of relevant date in respect of cases where a return is not filed on the due date and where only interest is required to be recovered,
   (iii) it is proposed that provisions of section 11A not to apply to cases where the non-payment or short payment of duty is reflected in the periodic returns filed and that in such cases recovery of duty shall be made in such manner as may be prescribed in the rules.
2. Section 11AC proposed to be substituted so as to rationalize the penalty in the following manner:
   (i) in cases **not involving** fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Central Excise Act or rules with the intent to evade payment of excise duty-
      a) in addition to the duty as determined under section 11A(10), a penalty not exceeding 10% of the duty so determined or `5000, whichever is higher, shall be payable;
      b) if duty and interest payable thereon under section 11AA is paid either before issue of show cause notice or within 30 days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of said duty and interest shall be deemed to be concluded;
      c) if duty as determined under section 11A(10) and interest payable thereon under section 11AA is paid within 30 days of the date of communication of order of the Central Excise Officer who has determined such duty, the amount of penalty shall be equal to 25% of the penalty so imposed, provided that such reduced penalty is also paid within 30 days of the date of communication of such order.
   (ii) in cases **involving** fraud or collusion or wilful mis-statement of suppression of facts or contravention of any provision of the Central Excise Act or rules with the intent to evade payment of excise duty-
      a) in addition to the duty as determined under section 11A(10), a penalty equal to the duty so determined shall be payable.
      b) if duty and interest payable thereon under section 11AA is paid within 30 days of communication of show cause notice, the amount of penalty payable shall be 15% of the duty demanded, provided that such reduced penalty is also paid within 30 days of communication of show cause

notice and all proceedings in respect of said duty, interest and penalty shall be deemed to be concluded;

c) if duty as determined under section 11A(10) and interest payable thereon under section 11AA is paid within 30 days of the date of communication of order of the Central Excise Officer who has determined such duty, the amount of penalty shall be equal to 25% of the duty so determined, provided that such reduced penalty is also paid within 30 days of the date of communication of such order; and

(iii) If the duty amount gets modified in any appellate proceeding, then the penalty amount mentioned in (ii) (a) above and interest shall also stand modified accordingly. Where the duty amount is increased in the appellate proceedings, the benefit of reduced penalty as specified shall be admissible if duty, interest and reduced penalty in relation to such increased amount is paid within 30 days of such appellate order.

3. Section 32B proposed to be amended so as to enable Vice Chairman or Member of the Settlement Commission to officiate as Chairman, in the absence of Chairman of the Settlement Commission.
4. Penalty provided under sub-sections (4) and (5) of section 37 proposed to be enhanced from `2000 to `5000.

An explanation proposed to be inserted to section 3A(3) to provide that "factor" relevant to production, in the said sub-section, includes "factors" relevant to production. This enables the Central Government to specify more than one factor relevant to the production of such goods. This amendment will come into effect immediately.

Amendments in the CENVAT Credit Rules, 2004

1. Time limit for taking CENVAT credit on inputs and input services enhanced from the present 6 months to one year [Rule 4].
2. Time limit for return of capital goods from a job worker enhanced from the present 6 months to two years [Rule 4].
3. Provision relating to reversal for CENVAT credit, presently applicable to exempted goods and services, made applicable to non-excisable goods also [Rule 6]
4. CENVAT credit taken, but NOT utilized, also to be recovered [Rule 14].

Amendments in the Central Excise Rules, 2002

Digitally signed invoices may be issued and records may be preserved in electronic form by a manufacturer [Rules 10 and 11].

Simultaneous amendments in Central Excise Rules, 2002 and CENVAT Credit Rules, 2004

1. Direct dispatch of goods to registered dealer's/ registered importer's customers without first bringing them to the dealer's / importer's registered premises subject to the conditions specified therein.
2. Direct dispatch of inputs and capital goods to job worker without first bringing them to the manufacturer's /output service provider's premises subject to the conditions specified therein.
3. Application of certain provisions of these rules, presently applicable to the registered dealers, to apply to the registered importers also.

Other amendment

Registration process simplified to ensure that registration is granted within 2 working days of the receipt of a duly completed application form. Verification of documents and premises, as the case may be, shall be carried out after the grant of the registration.

CUSTOMS

Amendments in the Customs Act, 1962

1. Section 28 to be amended to provide as follows:
   (i) in cases not involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of duty, no penalty shall be imposed if the amount of duty along with interest, is paid in full within 30 days from the date of receipt of the notice and the proceedings in respect of such person or other persons to whom the notice is served shall be deemed to be concluded;
   (ii) in cases involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of duty, the amount of penalty payable to be reduced to 15% (instead of the present 25%) if the amount of duty in full or in part, as may be accepted, along with interest and such reduced penalty, is paid within 30 days from the date of receipt of the notice.
2. Section 112 providing penalty for improper importation of goods, etc/ section 114 providing penalty for attempt to export goods improperly, etc. proposed to be amended to provide that any person who, in relation to any dutiable goods, other than prohibited goods, does or omits to do any act which would render such goods liable to confiscation under section 111/ section 113 respectively, or abets the doing or omission of such an act, shall, subject to the provisions of section 114A, be liable to a penalty not exceeding 10% of the duty sought to be evaded OR `5000, whichever is greater.

   However, in cases of short levy or non-levy or short payment or non-payment and erroneous refund of duty for reasons of collusion or any willful mis-statement or suppression of facts, if the duty as determined under section 28(8) and the interest payable thereon under section 28AA is paid within 30 days from the date of

communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid under this section shall be 25% of the penalty so determined.

COMMON AMENDMENTS UNDER CENTRAL EXCISE AND CUSTOMS

1. The scheme of Advance Ruling extended to "resident firm" in Central Excise and Customs.
2. Proviso to section 31(c) of the Central Excise Act, 1944/ proviso to section 127A(b) of the Customs Act, 1962 proposed to be amended to provide that when any proceeding is referred back, whether in appeal or revision or otherwise, by any court, Appellate Tribunal Authority or any other authority to the adjudicating authority for a fresh adjudication or decision, then such case shall not be entitled for Settlement.
3. Certain provisions relating to Settlement Commission, which are now redundant, are proposed to be omitted.

SERVICE TAX

Amendments to be effective from a date to be notified after Finance Bill receives the assent of the President

1. **Service Tax Rate**
   The rate of Service Tax is being increased from 12% plus Education Cesses i.e. 12.36% to 14%. The 'Education Cess' and 'Secondary and Higher Education Cess' shall be subsumed in the revised rate of Service Tax. Accordingly, an amendment is being made in section 66B, sections 95 and section 140 of the Finance Act. The 'EC' and SHEC will continue to be levied in Service Tax till the time revised rate comes into effect.

2. **Swachh Bharat Cess**
   Central Government has been empowered to impose a Swachh Bharat Cess on all or any of the taxable services at a rate of 2% on the value of such taxable services. This cess shall be levied from such date as may be notified by the Central Government after the enactment of the Finance Bill, 2015.

Amendments made with immediate effect

3. Existing exemption, vide notification No. 42/12-ST dated 29.6.2012, to the services provided by a commission agent located outside India to an exporter located in India is being rescinded with immediate effect. This is done on account of the amendments made in law in the previous budget making the place of provision of a service provided by such agents as outside the taxable territory.

4. The facility of Advance Ruling is being extended to all resident firms by specifying such firms under section 96A (b)(iii) of the Finance Act, 1994.

A. Amendment to Negative List: to be effective from a date to be notified after Finance Bill receives the assent of the President

1. Negative list entry covering "Entry to Entertainment Events and Access to Amusement Facilities" has been omitted. Its implications are as follows:

a) Service Tax shall be levied on the service provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks and theme parks.

b) Service tax to be levied on service by way of admission to entertainment event of concerts, pageants, musical performances concerts, award functions and sporting events other than the recognized sporting event, if the amount charged is more than Rs. 500 for right to admission to such an event.

c) Service by way of admission to entertainment event, namely, exhibition of cinematographic film, circus, recognized sporting event, dance, theatrical performance including drama and ballet is exempted from Service Tax from notification No. 25/12-ST(Mega exemption Notification)

2. Earlier Negative List covered services by way of any process amounting to manufacture or production of goods which includes carrying out any processes for production or manufacture of alcoholic liquor for human consumption. Now Service Tax shall be levied on contract manufacturing/job work for production of potable liquor for human consumption.
3. Earlier Negative List covered services provided by the Government or a local authority excluding certain services, as specified, which included "support service" provided by the Government or local authority to a business entity. Now all services provided by the Government or local authority to a business entity, except the services that are specifically exempted, or covered by any another entry in the Negative List, shall be liable to service tax.

B. Amendments in Service Tax Rules

1. With effect from 01st March 2015, in respect of any service provided under aggregator model, the aggregator, or any of his representative office located in India or an agent of aggregator, is being made liable to pay Service Tax if the service is so provided using the brand name of the aggregator in any manner. In this regard appropriate amendments have been made in rule 2 of the Service Tax Rules, 1994 and notification No. 30/2012-ST dated 20.6.2012.
2. With effect from 01st March 2015, rule 4 has been amended to provide that the CBEC shall, by way of an order will specify the conditions, safeguards and procedure for registration in service tax. In this regard Order No. 1/15-ST, dated 28.2.2015 has been issued, prescribing documentation, time limits and procedure for registration. It has also been prescribed that henceforth registration for single premises shall be granted within two days of filing the application.
3. Rule 4, 4A and 5A: provision for issuing digitally signed invoices is being added along with the option of maintaining of records in electronic form and their authentication by means of digital signatures. The conditions and procedure in this regard shall be specified by the CBEC. The changes are applicable with immediate effect.
4. Rule 6 (6A): provided for recovery of service tax self-assessed and declared in the return under section 87 is being omitted consequent to the amendment in section 73 for

enabling such recovery. This change will come into effect from the date of enactment of the Finance Bill, 2015.

5. In respect of services given in below table the service provider has been allowed to pay service tax at an alternative rate subject to the conditions as prescribed under rule 6 (7), 6(7A), 6(7B) and 6(7C) of the Service Tax Rules, 1994. Consequent to the upward revision in Service Tax rate, the said alternative rates is revised proportionately as per the table given below:

S No.	Name of Service	Old Rate	New Rate
1.	Air Travel Agent(Domestic Bookings)	0.6%	0.7%
	Air Travel Agent(International Bookings)	1.2%	1.4%
2.	Life Insurance Service	3 % and 1.5 %	3.5 % and 1.75 % respectively.
3.	Money Changer Service	(a) 0.12 per cent. of the gross amount of currency exchanged for an amount upto rupees 100,000, subject to the minimum amount of rupees 30; and (b) rupees 120 and 0.06 per cent. of the gross amount of currency exchanged for an amount of rupees exceeding rupees 100,000 and upto rupees 10,00,000; and (c) rupees 660 and 0.012 per cent. of the gross amount of currency exchanged for an amount of rupees exceeding 10,00,000, subject to maximum amount of rupees 5000	(a) 0.14 per cent. of the gross amount of currency exchanged for an amount upto rupees 100,000, subject to the minimum amount of rupees 35; and (b) rupees 140 and 0.07 per cent. of the gross amount of currency exchanged for an amount of rupees exceeding rupees 100,000 and upto rupees 10,00,000; and (c) rupees 770 and 0.014 per cent. of the gross amount of currency exchanged for an amount of rupees exceeding 10,00,000, subject to maximum amount of rupees 5000
4.	lottery distributor and selling agent	Rs. 7,000/- & Rs. 10,000/-	Rs. 8,200/- & Rs. 12,800/- respectively.

The above changes will become effective from a date to be notified after Finance Bill receives the assent of the President

Amendments applicable w.e.f. 1st April 2015

A. Amendment to Mega Exemption Notification

1. Rationalization of Existing Exemptions

(a) Exemption presently available on specified services of construction, repair, maintenance, renovation or alteration service provided to the Government, a local authority, or governmental authority (vide S. No. 12 of the notification No. 25/12-ST) shall be limited only to:-

(a) a historical monument, archaeological site or remains of national importance, archaeological excavation or antiquity;

(b) canal, dam or other irrigation work; and

(c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.

Exemption to other services presently covered under S. No. 12 of notification No. 25/12-ST is being withdrawn.

(b) Exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port provide vide entry 14 is being withdrawn. However the other exemptions covered under entry 14 will continue unaltered.

(c) Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theatre, will be limited only to such cases where amount charged is upto Rs 1,00,000 for a performance.

(d) Exemption to transportation of food stuff by rail, or vessels or road will be limited to food grains including rice and pulses, flour, milk and salt. Transportation of agricultural produce is separately exempt, and this exemption would continue.

(e) Exemptions are being withdrawn on the following services:

a. services provided by a mutual fund agent to a mutual fund or assets management company,
b. distributor to a mutual fund or AMC,
c. selling or marketing agent of lottery ticket to a distributor.

Service Tax on these services shall be levied on reverse charge basis.

(f) Consequent to imposition of Service Tax levy on service by way of manufacture of alcoholic liquor for human consumption, an amendment is being made in the entry at S. No. 30 of notification No. 25/12-ST to exclude carrying out of intermediate production process of alcoholic liquor for human consumption on job work from this entry. The

change shall come into effect from a date to be notified after the enactment of the Finance Bill, 2015.

(g) Exemption is being withdrawn on the following service,-

a. Departmentally run public telephone;
b. Guaranteed public telephone operating only local calls;
c. Service by way of making telephone calls from free telephone at airport and hospital where no bill is issued.

2. New exemptions introduced

(a) Exemption to any service provided by way of transportation of a patient to and from a clinical establishment by a clinical establishment. All ambulance services are covered within the scope of this exemption.
(b) Exemption to Life insurance service provided by way of Varishtha Pension Bima Yojna.
(c) Exemption to Service provided by a Common Effluent Treatment Plant operator for treatment of effluent.
(d) Exemption to Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables.
(e) Exemption to Service provided by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve. These services when provided by Government or local authority are covered under Negative List.
(f) Exemption to Service provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or an association of persons consisting of such exhibitor as one of it's members.
(g) Exemption to Goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport vide notification No. 31/12-ST dated 20.6.2012.
(h) Exemption to service by way of right to admission to,-
    i. exhibition of cinematographic film, circus, dance, or theatrical performances including drama or ballet.
    ii. recognized sporting events.
    iii. concerts, pageants, award functions, musical performances or sporting events not covered by S. No. ii, where the consideration for such admission is upto Rs. 500 per person.

These exemptions are in lieu of activities covered by the Negative List which are withdrawn. The change shall come into effect from a date to be notified after the enactment of the Finance Bill, 2015.

B. <u>Abatement Notification amended</u>

1. The taxable portion of service of transportation by rail, road and vessel shall be 30% subject to a uniform condition of non-availment of CENVAT Credit on inputs, capital goods and input services.
2. The taxable portion of value of air transport of passenger for higher classes shall be 60% as against economy class for which Service Tax is payable on 40% of the value.
3. Abatement is withdrawn for services provided in relation to chit and Service Tax is payable by chit fund foremen on the full consideration received by way of fee, commission or any such amount with a facility to avail CENVAT Credit on the same.

C. Reverse charge/Partial reverse charge

1. In relation to manpower supply and security services provided by an individual, HUF, or partnership firm to a body corporate, only service receiver to pay service tax as against present system of partial reverse charge.
2. Service Tax in respect of mutual fund agent and mutual fund distributor services shall be paid by the assets management company or by the mutual fund receiving such services.
3. Distributor of Lottery is required to pay Service Tax in respect of agents of lottery.

D. CENVAT CREDIT RULES

1. Earlier CENVAT credit to service receiver under partial reverse charge was eligible only if payment of service has been made to service provider. Now with effect from 1.4.2015 Rule 4(7) has been amended to allow CENVAT Credit of Service Tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider.

E. Other Amendments which shall get incorporated in the said Act on the day the Finance Bill, 2015 is enacted.

1. Consideration for a taxable service shall include all reimbursable expenditure or cost incurred and charged by the service provider and amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket or the discount received.
2. Section 73 is being amended in the following manner:
   (a) A new sub-section (1B) is being inserted to provide that recovery of the Service Tax amount self-assessed and declared in the return but not paid shall be made under section 87, without service of any notice under sub-section (1) of section 73; and
   (b) sub-section (4A) that provides for reduced penalty if true and complete details of transaction were available on specified records, is being omitted.
3. Section 76 is being amended to rationalize the provisions relating to penalties, in cases not involving fraud or collusion or wilful misstatement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of Service Tax, in the following manner,-
   (a) penalty not to exceed ten per cent. of Service Tax amount involved in such cases;

(b) no penalty is to be paid if Service Tax and interest is paid within 30 days of issuance of notice under section 73 (1);

(c) a reduced penalty equal to 25% of the penalty imposed by the Central Excise officer by way of an order is to be paid if the Service Tax, interest and reduced penalty is paid within 30 days of such order; and

(d) if the Service Tax amount gets reduced in any appellate proceeding, then the penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25% of penalty imposed) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.

4. Section 78 is being amended to rationalize penalty, in cases involving fraud or collusion or wilful mis-statement of suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of Service Tax, in the following manner,-

(a) penalty shall be hundred per cent of Service Tax amount involved in such cases;

(b) a reduced penalty equal to 15% of the Service Tax amount is to be paid if Service Tax, interest and reduced penalty is paid within 30 days of service of notice in this regard;

(c) a reduced penalty equal to 25% of the Service Tax amount, determined by the Central Excise officer by an order, is to be paid if the Service Tax, interest and reduced penalty is paid within 30 days of such order; and

(d) if the Service Tax amount gets reduced in any appellate proceeding, then the penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25%) shall be admissible if Service Tax, interest and reduced penalty is paid within 30 days of such appellate order.

5. A new section 78 B is being inserted to prescribe, by way of a transition provision, that,-

(a) amended provisions of sections 76 and 78 shall apply to cases where either no notice is served, or notice is served under subsection (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015; and

(b) in respect of cases covered by sub-section (4A) of section 73, if no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015, penalty shall not exceed 50% of the Service Tax amount.

6. Section 80, that provided for waiver of penalty in certain circumstances, is being omitted.

7. Section 86 is being amended to prescribe that remedy against the order passed by Commissioner (Appeal), in a matter involving rebate of Service Tax, shall lie in terms of section 35EE of the Central Excise Act. It is also being provided that all appeals filed in Tribunal after the date the Finance Act, 2012 came into effect and pending on the date when the Finance Bill, 2015 receives assent of the President shall be transferred and dealt in accordance with section 35EE of the Central Excise Act.