UNION BUDGET 2015-16 HIGHLIGHTS & ANALYSIS

Finance Minister Arun Jaitley has presented the general budget for 2015-16 in Parliament. This is the first full-fledged budget of the Modi government. The credibility of Indian economy has been restablished, the world is predicting that it's India's chance to fly, Jaitley said during the speech.

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KEY FEATURES OF INDIAN BUDGET 2015-16.

Union Budget 2015-16 is presented by Finance Minister Mr. Arun Jaitley in the Parliament on 28th of February, 2015. We are bringing you the highlights and key announcements of Budget 2015-16.

Union Budget 2015-16: Highlights & Key Announcements

- The objective of this Budget is to improve quality of life and to pass benefits to common man.
- Indian Govt has 3 major achievements: Jan Dhan Yojana, Coal Auction and Swacch Bharat programme
- Incremental change is not going to take us anywhere, will need to think in terms of quantum jump
- Under Swacch Bharat Yojana, 50 lakh toilet already built, 6 crore toilet targeted
- Government will encourage new start ups and entrepreneurship
- Government is still firm on achieving fiscal deficit target of 3 % of GDP eventually
- Real GDP expected to accelerate to 7.4%
- Current FOREX reserves $340 bn, Second best stock market in Asian economy
- Govt will utilize vast postal network for increasing access to institutional banking
- Roadmap to achieve Fiscal deficit of 3% of GDP in three years: Target is 3.9% in 2015-16, 3.5% in 2016-17, 3% in 2017-18.
- National Insurance scheme called PM Suraksha Bhima Yojana, offering coverage of 2 lakh rupees for just premium of Rs.12 per year. [WOW!]
- Rs. 5300 crore allocated for micro irrigation
- Target of 8.5 lakh crores credit to be given to farmers in 2015-16
- Target of 8.5 lakh crore of credit for agricultural sector
- Unclaimed deposits of Rs 3,000 crore in PPF and Rs 6000 crore in EPF; to create senior citizens welfare fund from this corpus
- Atal Pension Yojana to provide defined pension according to contribution ; 50% contribution to be from Govt.
- Increased Budgetary allocation to Roads & Railways
- 5 Ultra Mega power projects, of 4000 MW announced
- Initial sum of Rs 150 Cr to create world class IT hub to take advantage of our competitiveness

- Start-ups: mechanism for techno-financial incubation for start ups; govt sets aside Rs 1000 crore
- National Infrastructure Fund will try to leverage Infrastructure companies ; Tax free bonds for Roads , Railways & irrigation
- Renewable energy target will be increased to 1,75,000 MW
- Highest ever allocation for MGNREGA, by increasing it this year by 5,000 crore rupees
- Ports in public sector will be encouraged to corporatize & become companies under companies act
- EPF & ESI has hostage rather than client ; ESI should be made optional to employees
- GST will be put in place state of art internationally indirect tax system by April 1st 2016: FM
- An addition of 1,000 crores for Nirbhaya Fund
- Govt proposes to increase visa-on-arrival to 150 countries to increase tourism
- Initial outlay of Rs 75 crore for development of electric vehicles
- For better regulation a merger of FMC & SEBI is being currently worked out
- National Skill Mission to be launched through skill development and entrepreneurship ministry, to develop employability of youth, especially below 25 years of age
- Section 6 of FEMA to be amended
- Committee to be set up to plan the celebration of the 100th birth anniversary of Deen Dayal Upadhyaya
- Propose to set-up an IT based student financial aid system under PM Vidya Laxmi scheme
- The new Pradhan Mantri Vidya Lakshmi Programme will ensure no student misses out on higher education opportunities due to lack of funds
- Govt announces AIIMS institutions in J& K , Punjab , Himachal Pradesh and Assam.
- ISM Dhanbad will be upgraded to full IIT
- Government is pursuing policy of #MakeInIndia in defense not only to cater our needs but also for export
- Defense budget has been enhanced to 2,46,727 crore rupees, an approx. increase of Rs. 25,000 crore

- Unplanned expenditure for 2015-16 is estimated at 13 lakh 12 thousand and 200 crores
- Budget Estimates of Expenditure: Rs. 17 .77 lakh crore of which Non Planned is Rs. 13.12 lakh crore and Plan is 4.65 lakh crores
- Direct Tax collection is going to be 14.49 lakh crore rupees
- Basic rate of Corporate Tax to be reduced from 30% to 25% in next 4 years and will be accompanied by reducing exemptions.
- Exemptions to individual tax payers will remain
- Non-filing of returns, or filing of returns with inadequate information may attract 10 year Jail term. Even concealment of income will be prosecutable with rigorous imprisonment
- Government to enact a comprehensive law on black money stashed abroad
- Benami property transaction bill will be introduced to tackle black money transaction in real estate soon
- Quoting of PAN is mandatory for any purchase made more than Rs. 1 Lakh.
- Defer the applicability of GAAR for 2 years ; will only apply prospectively after Apr 2017.
- Reduced Royalty fees on Technical Services to 10% from 25%.
- Wealth Tax Abolished, instead super rich will pay extra 2% extra surcharge for people with income over 1 Crore. This will lead to additional 9,000 cr to Tax kitty.
- Custom duty on raw materials and intermediaries to be reduced
- Excise duty on Leather footwear reduced to 6%
- Fuel excise duty will remain unchanged; change in tobacco excise duty.
- Consolidated Service Tax increased from 12.36% to 14%!
- Increased in deduction for Health insurance from Rs. 15000 to Rs. 25000. For senior citizens increased to 30,000.
- Additional deduction of Rs 50,000 for contribution to pension fund and new pension scheme
- Tax exemption for transport allowance increased from Rs 800 to Rs 1600 per month.
- Individual tax payer will benefit to the extent Rs.4,44,200/- from the exemptions announced
- Direct tax proposals will lead to 8315 cr loss and an increase of Rs. 23,000 cr in indirect tax gains.

FINANCE BILL, 2015- PROVISIONS RELATING TO DIRECT TAXES

Tax Rates

- No change in the basic exemption limit and the tax rates of individuals
- Corporate tax rates proposed to be reduced from 30% to 25% over the next four years, starting from next financial year.
- The existing rate of tax on Income by way of Royalty and Fees for technical services in case of non-residents @25% proposed to be reduced to 10%.
- Additional surcharge @ 2% being levied on income exceeding Rs. 1 crore. **This surcharge would be levied in place of Wealth-tax which is proposed to be abolished.**

Deductions from Gross Total Income

- Exempt-Exempt-Exempt (EEE) tax benefit proposed for assessee having a girl child and investing under the Sukanya Samriddhi Account Scheme. The investments made in the Scheme will be eligible for deduction under section 80C of the Act, the interest accruing on deposits in such account will be exempt from income tax and the withdrawal from the said scheme in accordance with the rules of the said scheme will be exempt from tax.
- In view of continuous rise in the cost of medical expenditure, section 80D is proposed to be amended to raise the limit of deduction from **15,000 to Rs. 25,000**. Further, the limit of deduction for senior citizens is also proposed to be increased **from Rs. 20,000 to Rs. 30,000**.
- As a welfare measure towards **very senior citizens**, a deduction under section 80D is proposed for any payment made on **account of medical expenditure** in respect of a very senior citizen, subject to a limit Rs. 30,000**.**
- The limit for deduction under section 80DDB is proposed to be increased to Rs. 80,000 in respect of amount paid for medical treatment **of very senior citizen**.
- Section 80DD and section 80U is proposed to be amended to increase the limit from **50,000 to Rs. 75,000** and from **Rs. 1 lakh to Rs. 1.25 lakh,** as the case may be.

- In order to promote social security, deduction section 80CCC(1) which provides for deduction of amount paid or deposited to effect or keep in force a contract for any annuity plan of LIC or any other insurer for receiving pension from a fund set up under a pension scheme is proposed to be amended to raise the limit of deduction from **1 lakh to Rs. 1.5 lakh**, within the overall limit provided in section 80CCE.
- Section 80G is proposed to be amended to provide for 100% deduction in respect of donations made to the **National Fund for Control of Drug Abuse.**
- With a view to encourage and enhance people's participation in the national effort to improve sanitation facilities and rejuvenation of river Ganga, section 80G is proposed to be amended so as to provide 100% deduction for donations made by any donor to the **Swachh Bharat Kosh and to Clean Ganga Fund.**

Measures to curb black money

- In order to curb generation of black money by way of dealings in cash in immovable property transactions, section 269SS is proposed to be amended so as to provide that no person shall accept from any person, any loan or deposit or any sum of money, whether as advance or otherwise, **in relation to transfer of an immovable property** otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount of such loan or deposit or such specified sum is twenty thousand rupees or more.
- Similarly, section 269T also is proposed to be amended so as to provide that no person shall repay any loan or deposit made with it or any specified advance received by it **in relation to transfer of an immovable property whether or not the transfer takes place**, otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount or aggregate amount of loans or deposits or specified advances is twenty thousand rupees or more.

General Anti Avoidance Rule (GAAR)

- The implementation of General Anti Avoidance Rule (GAAR) is proposed to be deferred by two years. Accordingly, it would be applicable for the financial year 2017-18 (A.Y. 2018-19) and subsequent years. Further, it is also proposed that the investments made upto 31.03.2017 shall not be subject to GAAR.

Additional Investment Allowance and provisions in respect of additional depreciation

- A new section 32AD is proposed to be inserted to provide for an additional investment allowance of an amount equal to 15% of the cost of new asset acquired and installed by an assessee, if—
- (i) he sets up an undertaking or enterprise for manufacture or production of any article or thing on or after 1st April, 2015 in any notified backward areas in the State of Andhra Pradesh and the State of Telangana; and
- (ii) the new assets are acquired and installed for the purposes of the said undertaking or enterprise during the period beginning from the 1st April, 2015 to 31st March, 2020.
- This deduction shall be available over and above the existing deduction available under section 32AC of the Act.
- Further, in order to incentivise acquisition and installation of plant and machinery for setting up of manufacturing units in the notified backward area in the State of Andhra Pradesh or the State of Telangana, it is proposed **to allow higher additional depreciation at the rate of 35% (instead of 20%)** in respect of the actual cost of new machinery or plant (other than a ship and aircraft) acquired and installed by a manufacturing undertaking or enterprise which is set up in the notified backward area of the State of Andhra Pradesh or the State of Telangana on or after the 1st day of April, 2015.
- To remove the discrimination in the matter of allowing additional depreciation under section 32(1)(iia) on plant or machinery used for less than 180 days and used for 180 days or more, it is proposed to provide that the **balance 50% of the additional depreciation** on new plant or machinery acquired and used for less than 180 days which has not been allowed in the year of acquisition and installation of such plant or machinery, shall be allowed in the immediately succeeding previous year.

Definition of charitable purpose

- The definition for charitable purpose provided under section 2(15) is proposed to be amended to include the activity of Yoga as a special category of activity to be considered as charitable purpose on the lines of education.

- The definition is proposed to be further amended to provide that the advancement of any other object of general public utility shall not be a charitable purpose**,** if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless,-
- (i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and
- (ii) the aggregate receipts from such activity or activities, during the previous year, do not exceed 20% of the total receipts, of the trust or institution undertaking such activity or activities, for the previous year .

Cost of acquisition in the hands of resulting company

- There is no express provision under the Income-tax Act, with regard to value to be considered as cost of acquisition of a capital asset in the hands of resulting company on transfer of capital assets acquired on demerger. Accordingly, section 49 is proposed to be amended to provide that the cost of acquisition of an asset acquired by resulting company shall be the **cost for which the demerged company acquired the capital asset** as increased by the cost of improvement incurred by the demerged company.

Direct Taxes Code

- Since the jurisprudence under the Income-tax Act is well evolved and a large number of provisions of the proposed DTC have already been included in the Income-tax Act, 1961 and the remaining are proposed to be included through the Finance Bill, 2015, the Government has expressed its resolve of not going ahead with the DTC.

SYNOPSIS- INTERNATIONAL TAXATION PROVISIONS

- **Fund Managers in India not to constitute business connection of offshore funds**
- It is proposed that mere presence of a fund manager in India would not constitute PE of the offshore funds, as this is resulting in adverse tax consequences currently.
- In order to facilitate location of fund managers of off-shore funds in India a specific regime has been proposed in the Act in line with international best practices with the objective that, subject to fulfilment of certain conditions by the fund and the fund manager,-
- (i) the tax liability in respect of income arising to the Fund from investment in India would be neutral to the fact as to whether the investment is made directly by the fund or through engagement of Fund manager located in India; and
- (ii) that income of the fund from the investments outside India would not be taxable in India solely on the basis that the Fund management activity in respect of such investments have been undertaken through a fund manager located in India.
- In the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund.

Reduction in rate of tax on Income by way of Royalty and Fees for technical services in case of non – residents – Proposed Reduction in Royalty / FTS rate to 10% from 25%

- It is proposed to reduce the rate of tax provided under section 115A on royalty and FTS payments made to non-residents from 25% to 10%.

Clarity relating to Indirect transfer provisions – Further clarification to Explanation 5 in section 9(1)(i)

- Currently The *Explanation* 5 in section 9(1)(i) clarified that an asset or capital asset, being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be situated in India if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

- The share or interest of a foreign company or entity shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if on the specified date, the value of Indian assets,-
- a) exceeds the amount of ten Crore rupees ; and
- b) Represents at least fifty per cent. of the value of all the assets owned by the company or entity.
- Value of an asset shall mean the fair market value of such asset without reduction of liabilities, if any, in respect of the asset.
- The specified date of valuation shall be the date on which the accounting period of the company or entity, as the case may be, ends preceding the date of transfer.

Raising the threshold for specified domestic transaction- Increase in limit of specified domestic transaction from 5 Crores to 20 Crores rupees

- It is proposed to amend section 92BA by increasing the limit of specified domestic transactions entered into by the assessee from 5 Crores to 20 Crores rupees.

Enabling the Board to notify rules for giving foreign tax credit – Rules will be prescribed to claim foreign tax credit u/s 90, 90A and 91

- CBDT may make rules to provide the procedure for granting relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90, or under section 90A, or under section 91, against the income-tax payable under the Act. This amendment will take effect from 1st day of June, 2015.

Clarity regarding source rule in respect of interest received by the non-resident in certain cases

- In the case of a non-resident, being a person engaged in the business of banking, the PE in India of such non-resident shall be obligated to deduct tax at source on any interest payable to either the head office or any other branch or PE, etc. of the non-resident outside India. Further, non-deduction would result in disallowance of interest claimed as expenditure by the PE and may also attract levy of interest and penalty in accordance with relevant provisions of the Act.

Amendment to the conditions for determining residency status in respect of Companies

- POEM is proposed to be introduced for determining the residential status of company which is in line with DTAA
- It is proposed to amend the provisions of section 6 to provide that a person being a company shall be said to be resident in India in any previous year, if-
- (i) it is an Indian company; or
- (ii) Its place of effective management, at any time in that year, is in India. (Earlier the provision was – during that year, the control and management of its affairs is situated wholly in India)
- Further, it is proposed to define the place of effective management to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

Rationalisation of provisions relating to Tax Deduction at Source (TDS) and Tax Collection at Source (TCS) – Penalty of 1 lakh proposed for providing incorrect information or non-providing of information as per 195(6)

- It is proposed to amend the provisions of section 195 of the Act to provide that the person responsible for paying any sum, **whether chargeable to tax or not, to a non-resident individual or** foreign company, shall be **required to furnish the information of the prescribed sum in such form and manner as may be prescribed.**
- It is further proposed to insert a new provision in the Act to provide that in case of non-furnishing of information or furnishing of incorrect information under sub-section (6) of section 195(6) of the Act, a penalty of **one lakh rupees** shall be levied.
- It is also proposed to amend the provisions of section 273B of the Act to provide that **no penalty shall be imposable under this new provision if it is proved that there was reasonable cause for non – furnishing or incorrect furnishing of information under sub-section (6) of section 195 of the Act**. These amendments will take effect from 1st June, 2015.

Power of the Central Board of Direct Taxes to prescribe the manner and procedure for computing period of stay in India

- It is proposed to amend the Act to provide that in the case of an Individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed. This amendment will take effect retrospectively from 1st April, 2015.

SIGNIFICANT CHANGES IN EXCISE & SERVICE TAX-BUDGET 2015-16

Change in Excise & Service Tax Rate:

Central Excise duty to be rounded off to 12.5 % (from 12.36 %)

Service tax to be increased from 12.36 % to 14 %. Date of levy of new rate shall be notified after enactment of Finance Bill 2015. Till the time it is notified the rate shall be 12.36% only .

Procedure Changes

Online Excise and Service Tax registrations in 2 days

Digital invoices to be accepted

A 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.

Cenvat Credit

Rule 4(7) is being 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. This change will come into effect from 1.4.2015.

The period for availing Cenvat Credit can be availed within <u>one year from the date of invoice.</u> Previously it was restricted to six months only.

Penal Provisions

Section 11AC of CEA,1944 is proposed to be changed with new provision to impose penalty to tackle two situations as below :

1. evasion of duty or non payment of duty but without suppression

a) a penalty not exceeding 10% of the duty determined or Rs.5000 whichever is higher shall be payable;

b) no penalty shall be payable if duty and interest payable thereon under section 11AA is paid **before issue of show cause notice** or

no penalty shall be payable if duty and interest payable thereon under section 11AA is paid**within 30 days of issue of show cause notice**

c) the penalty will be reduced to 25% provided the 25% of the penalty out of total penalty imposed alongwith duty and interst is paid within 30 days of the date of communication of such order.

2. evasion or non payment with suppression

a) a penalty equal to the duty so determined shall be payable.

b) for the period beginning with 8th April, 2011 and upto the date of assent to the Finance Bill, 2015, the penalty payable shall be 50% of the duty so determined provided details of transactions of evasion are recorded

c) 15% penalty shall be payable, of the duty determined, if duty and interest payable thereon under section 11AA is paid **within 30 days of issue of show cause notice**

d) the penalty will be reduced to 25% provided the 25% of the penalty out of total penalty imposed alongwith duty and interest is paid within 30 days of the date of communication of such order.

Appellate Order To Effect Penalty

a. If duty is reduced by way of an order of Tribunal or Appellate authority then , percentage of penalty shall reduce accordingly depending upon the class of evasion as enumerated above i.e evasion with suppression or evasion without suppression .

b. If duty is increased by way of an order of Tribunal or Appellate authority then , percentage of penalty shall increase accordingly depending upon the class of evasion as enumerated above i.e evasion with suppression or evasion without suppression .

Further , very important explanations has been added to the proposed Section 11AC

Applicability of New Section 11AC

Explanation I covers the following 3 situations :

Situation 1 – where no show cause notice has been issued before the the date of assent of president to the Finance Bill,2015 , the provisions of to be enacted new Section 11AC of the Finance Act,2015 shall be applicable .

Situation 2 – where show cause notice has been issued before the the date of assent of president to the Finance Bill,2015

but

order is not issued before the assent of the president to the Finance Bill 2015 , then provisions of to be enacted new Section 11AC of the Finance Act,2015 shall be applicable .

Provided

such person pays the interest, duty and penalty in terms clause d) of proposed Section 11AC within 30 days from the date on which the Finance Bill ,2015 receives the assent of the President .

Situation 3 – where **order is passed** after the assent of the president to the Finance Bill 2015 , then provisions of to be enacted new Section 11AC of the Finance Act,2015 shall be applicable .

Provided

such person pays the interest, duty and penalty in terms of clause b) or e) of proposed Section 11AC within 30 days from the date of communication of the order.

Explanation II to the proposed Section 11AC is equally important as it explain the word "specified records"

It is pertinent to note that similar explanation already existed, since 2011, in Section

73 of Finance Act,1994 for service tax as below

Explanation under Section 73 of Finance Act,1994

For the purposes of this sub-section and section 78, "specified records" means records including computerized data as are required to be maintained by an assessee in accordance with any law for the time being in force or where there is no such requirement, the invoices recorded by the assessee in the books of account shall be considered as the specified records.;"

With the proposed new Section 11AC, i foresee reduction in disputes atleast in those appeals which used to be filed for getting relief in penalty .

Invoices & Records In Excise & Service Tax With Digital Signature

Khudos to our digital savy Prime Minister Shri Narendra Modi that finally the Budget 2015-2016 has incorporated the **digital signature era** in invoicing and records under central excise and service tax .

Service Tax

Notification No. 5/2015-Service Tax dated 01.03.2015 prescribes the authentication of invoices by digital signature by way of introduction of Rule 4C and sub-rule (4) of Rule 5 in service Tax Rules ,1994

"Rule 4C. Authentication by digital signature- *(1) Any invoice, bill or challan issued under rule 4A or consignment note issued under rule 4B may be authenticated by means of a digital signature.*

(2) The Board may, by notification, specify the conditions, safeguards and procedure to be followed by any person issuing digitally signed invoices.";

"In Rule 5, sub-rule (4)

Records under this rule may be preserved in electronic form and every page of the record so preserved shall be authenticated by means of a digital signature.

(5) The Board may, by notification, specify the conditions, safeguards and procedure to be followed by an assessee preserving digitally signed records.

Explanation – For the purposes of rule 4C and sub-rule (4) and (5) of this rule,- (i) The expression "authenticate" shall have the same meaning as assigned in the Information Technology Act, 2000 (21 of 2000). (ii) The expression "digital signature" shall have the meaning as defined in the Information Technology Act, 2000 (21 of 2000) and the expression "digitally signed" shall be construed accordingly."

Note –

a. manual signature will not be required rather a digital signature can be used for all authentications on the invoices .

b. the records which are maintained electronically shall be preserved with digital signature on each and every page of such record.

c. The aforesaid provisions shall be effective from 1st March 2015.

Excise

Notification No. 8/2015- Central Excise (N.T.) New Delhi, the1st March, 2015 prescribes the authentication of invoices by digital signature by way of introduction of sub-rule (8) & (9) of Rule 11 in Central Excise Rules,2002

In Rule 11, Sub-rule(8) &(9)

(8) An invoice issued under this rule by a manufacturer may be authenticated by means of a digital signature: Provided that where the duplicate copy of the invoice meant for transporter is digitally signed, a hard copy of the duplicate copy of the invoice meant for transporter ***and self attested by the manufacturer shall be used for transport of goods.***

(9) The Board may, by notification, specify the conditions, safeguards and procedure to be followed by an assessee using digitally signed invoice.
Explanation. – For the purposes of rule 11 and this rule, the expressions, "authenticate", "digital signature" and "electronic form" shall have the respective meanings as assigned to them in the Information Technology Act, 2000 (21 of 2000).

Note-

a. a manufacturer can authenticate invoices digitally but for transportation of excisable goods a self attested invoice shall also accompany with the goods as per sub-rule 8) of rule 11 of CER,2002.
b. The aforesaid provisions shall be effective from 1st March 2015.

BUDGET 2015-16- SERVICE TAX PROPOSALS

Ist Full Year Budget of New Government has been introduced in Parliament on 28th February, 2015. This Article intends to outline key amendments made in Service Tax.

A. Changes effective from enactment of Finance Bill

I. Rate of service tax

Present rate: 12.36% (12% + 3% as Education Cess)

Revised rate: Consolidated 14% (subsuming Education & Secondary Education Cess)

Impact: Cost of all services to get costlier viz. food, flats, insurance, mobile, transport to name a few.

II. Enabling Provision for Swachh Bharat Cess (Date to be notified)

An enabling provision is being incorporated to empower the Central Government to impose a Swachh Bharat Cess on all or any of the taxable services at 2% on the value of such taxable services.

As per Budget Speech by FM, the same shall be notified, if required.

III. Negative List compressed and consequent change in Exemptions.

1. Admission to Entertainment events etc. in service tax net

Present: Clause 'admission to entertainment event or access to amusement facility' is at present exempted under Negative List.

Proposed: The same is being omitted and exemption is being provided under Mega Exemption Notification 25/2012 on certain specific events viz. Theatrical/cinematographic events, recognised sports event and award functions/concerts/musical performance (in case consideration upto Rs. 500 per head).

Impact: 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.

2. Manufacture of alcoholic liquor for human consumption under service tax.

Present: Clause 'any process amounting to manufacture or production of goods' is covered in negative list

Proposed:

- The same is being amended to exclude service by way of carrying out any processes for production or manufacture of alcoholic liquor for human consumption.
- Consequently, Notification 25/2012 is being amended to exclude intermediate production of alcoholic liquor for human consumption from its ambit.

Impact: Service Tax shall be levied on contract manufacturing/job work for production of potable liquor for a consideration.

3. Not only Support Services, but all services by Government taxable

Present: Presently, services provided by Government or a local authority, excluding certain services specified under clause (a) of section 66D, are covered by the Negative List. Service Tax applies on the "support service" provided by the Government or local authority to a business entity.

Proposed: An enabling provision is being made to exclude all services provided by the Government or local authority to a business entity from the Negative List. Consequently, the definition of "support service" is being omitted. Further to address confusion, term 'Government' is being defined in Finance Act.

Impact: As and when this amendment comes into effect, 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.

4. **Activities in respect of Chit funds and lotteries taxable**

On account of contrary views by Courts, Government has clarified by way of explanation in Definition of Service and Negative List to levy Service Tax on the services provided by:

(a) chit fund foremen by way of conducting a chit.

(b) distributor or selling agents of lottery, as appointed or authorized by the organizing state for promoting, marketing, distributing, selling, or assisting the state in any other way for organizing and conducting a lottery.

IV. Other Amendments in Finance Act, 1994

1) Reimbursable Expenditure includable in value of taxable service

An amendment is being made in Section 67 to include following as part of consideration for value of taxable services:-

i. all reimbursable expenditure or cost incurred and charged by the service provider.

ii. amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket, or, as the case may be, the discount received, that is the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such tickets.

Impact:- This will nullify landmark judgment of Delhi High Court in case of **Intercontinental Consultants & Technocrats Pvt. Ltd.** wherein HC has quashed Rule 5(1) of Service Tax Rules, 1994 which provide for inclusion of expenditure or costs incurred by the service provider in the taxable value.

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) Rationalisation of Penalties – Section 76 & 78

	Section 76	**Section 78**
When applicable	Cases other than fraud, suppression etc.	Fraud, Collusion, wilful misrepresentation Suppression,
Maximum	10% of Service Tax	100% of Service Tax
In case ST+ Interest+ Penalty(sec 78) paid within 30 days of Show Cause Notice	No Penalty	15% of Service tax
In case ST+ Interest+ Penalty paid within 30 days of Order of CE Officer	25% of penalty imposed	25% of Service tax
In case ST amount	Benefit of reduced penalty (25%) available if ST+	

subsequently reduced in Appellate Order	Interest +Reduced Penalty paid within 30 days of such order.	

A transition provision by way of Section 78B is being provided in respect of pending cases.

4) Section 80 struck off

The most beneficial Section 80 of Finance Act, 1994 which provides for waiver of penalty in certain bonafide circumstances is being omitted. It is surprising that no reasonable justification has been provided in the Budget where it is being frequently used by Courts to waive penalty in unreasonable demands. This ensures penalty for every non-payment of service tax whatever is the reason.

5) Appeals in respect of issue pertaining to rebate of service tax on input services or inputs used in export of service shall be lied before Central Government as Revision Application as against present before CESTAT.

6) 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

B. Changes effective from 01.04.2015 unless specified otherwise.

V. Review of Exemptions (Mega Exemption Notf. No. 25/2012)

Several major exemptions have been withdrawn in this Budget tabulated as under:

Sr. No.	Service	Exemption withdrawn / limited
12	Construction related service provided to the Government, a local authority or a governmental authority	· a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; · a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment · a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the *Explanation* 1 to clause 44 of section 65 B of the said Act;
14	Construction related services	Construction related works pertaining to an**airport or port**

16	services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theatre	Exempt upto Rs 1,00,000 for a performance
20& 21	Transport by Road/Rail/Vessel	Exemption withdrawn on all activities except transportation of food grains including rice and pulses, flour, milk and salt and agriculture produce
29	Sub-Contract Services	(a) 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.
32	Telephone related 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

New Exemptions introduced as under:

Sr. No.	Service
2	Transportation of a patient in an ambulance
26A	Life insurance service provided by way of Varishtha Pension Bima Yojna
43	Service provided by a Common Effluent Treatment Plant operator for treatment of effluent
44	Pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables
45	Admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve
46	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
*	transport of export goods by road from the place of removal to a land customs station (LCS)

*By amendment in Notf. No. 31/2012.

VI. Change in Abatement rates and conditions

Particulars	Present Rate	Proposed taxable rate
Transport by (a) Road (Goods) (b) Rail(Goods + Passenger) (c) Vessel(Goods)	 25% 30% 40%	30% 30% 30% Subject to condition that no Cenvat on inputs, input services and capital goods is allowed.**
Air Transport of Passenger other than in Economy Class	40%	60%
Services provided in relation to chit	70%	100%

**Earlier in case of transport by rail, there was no restriction on Cenvat credit, now aligned for all modes of transport.

VII. Changes in Reverse Charge Mechanism

1. Manpower supply and security services in full reverse charge

Present: Partial Reverse Charge is applicable in case of Manpower Supply and Security Service i.e. 50% payable by Service provider and balance 50% by Service Receiver when provided by an individual, HUF, or partnership firm to a body corporate

Proposed: The same is being brought to full reverse charge i.e. entire service tax payable by Service Receiver.

Impact: This will reduce unnecessary compliance burden on small contractors and agencies.

2. Following Services have been brought under full reverse charge consequent to withdrawal of the exemption on such services -

(i) Service provided by mutual fund agents, mutual fund distributors; and

(ii) Service provided by agents of lottery distributor.

3. Aggregator or Representative made liable to pay service tax

In case of service provided or agreed to be provided by a person involving an aggregator in any manner, the aggregator or representative office located in India is being made liable to pay service tax if the service is so provided using the brand name of the aggregator in any manner under reverse charge scheme. If an aggregator does not have any presence, including that by way of a representative, in such a case any agent appointed by the aggregator shall pay the tax on behalf of the aggregator.

The term "aggregator" has been defined to means a 'person, who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator'.

VIII. AMENDMENTS IN RULES (W.E.F. 01.03.2015):

A. Service Tax Rules, 1994

(1) To move towards ease of doing business, it has been prescribed to grant registration for single premises within 2 days of filing of application. The modalities of the same have been issued by Order No. 1/15-ST, dated 28.2.2015 w.e.f. 01.03.2015.

(2) A 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.

(3) To align with revised general service tax rate, alternative rates of service tax under optional scheme for following services have been revised as under (effective on enactment of Finance Bill):

Service	Present	Revised
Air Travel Agent	Domestic- 0.6% International- 1.2%	Domestic- 0.7% International- 1.4%
Life Insurance Service	Ist Year- 3% Subsequent Years-1.5%	Ist Year- 3.5% Subsequent Years-1.75%
Money Changers' Services	Upto Rs. 1 Lac- 0.12% subject to max. Of Rs. 30 1 Lac-10 Lac: 0.06% Above 10 Lac: 0.012%	Upto Rs. 1 Lac- 0.14% subject to max. Of Rs. 35 1 Lac-10 Lac: 0.07% Above 10 Lac: 0.014%
Service of organizing Lottery	Guaranteed payout>80%:Rs. 7000 Guaranteed Payout<80%: Rs. 11000	Guaranteed payout>80%:Rs. 8200 Guaranteed Payout<80%: Rs. 12800

B. Cenvat Credit, 2004

1. Cenvat Credit allowed on service tax payment in partial reverse charge

Present: In cases where partial reverse charge is applicable, Service Recipient can avail the credit only after payment of the value of input service and service tax (unlike Full reverse charge where credit is allowed on payment of service tax).

Proposed: The provision has been aligned to allow Cenvat Credit in such cases on payment of service tax.

2. Time period for availment of credit extended to one year

Present: The time period for availment of Cenvat credit is 6 months from the date of invoice (introduced in Budget 2014.

Proposed: Now it has been extended from 6 months to 1 year**.**

Impact: It is a major relief for all manufacturers and service providers.

(3) Certain other changes are being made in the provisions of the Cenvat Credit Rules, 2004, which, inter-alia, include allowing Cenvat Credit on input and capital goods received directly by job workers, defining "export goods" for the purposes of rule 5, defining "exempt goods" for the purposes of rule 6, making applicable the provision of rule 9(4) to importer dealers, authorizing imposition of restrictions on registered dealers under rule 12AAA, and provisions relating to recovery of credit wrongly taken and imposition of penalty.