

TAX CONNECT



JAV & ASSOCIATES

Chartered Accountants

Kolkata:

1, Old Court House Corner
"Tobacco House" 1st Floor
Room No.-13 (North)
Kolkata-70001
West Bengal

Vadodara:

Quarter no. 3/174
Gujarat Refinery Township
Jawaharnagar
Vadodara-391320
Gujarat

Contact:

+919331042424; +91931594980;
+918697575185; +913322625203

Email:

tb.chatterjee@dic.co.in;
tb.chatterjee@yahoo.co.in;
cavivekjalan@gmail.com;
vivek.jalan@icai.org



Friends

The Direct tax proposals of Union Budget 2016 resulted in revenue loss of Rs.1060 crore and indirect tax proposals result in gain of Rs.20,670 crore. We have tried to analyse the budget proposals in this special budget bulletin. Without much adieu, we directly go to the brief highlights and thereafter clause by clause analysis of the budget proposals.

SERVICE TAX

1. Krishi Kalyan Cess @ 0.5% on the value of taxable service to be levied on all taxable services with effect from 1st June, 2016
2. Removal of many exemptions from service tax w.e.f. various dates i.e. 1/3/2016, 1/4/2016 & 1/6/2016
3. Levy of Service Tax imposed on many services w.e.f. various dates i.e. 1/3/2016, 1/4/2016 & 1/6/2016
4. Exemptions from service tax provided on many services w.e.f. various dates i.e. 1/3/2016, 1/4/2016 & 1/6/2016
5. Number of service tax returns increased from 2 to 3, i.e. 2 half-yearly and 1 yearly (above a specified value) (w.e.f. April 1, 2016)
6. Level playing field provided for Indian shipping lines
7. Date of application for refund of Service Tax on services used beyond the factory or any other place or premises of production or manufacture of the said goods for the export of the said goods will be w.e.f. July 1, 2012
8. Benefit of quarterly payment of Service Tax is being extended to 'One Person Company' (OPC) and HUF.

9. Facility of payment of Service Tax on receipt basis is being extended to 'One Person Company' (OPC)
10. Exemptions on services of construction provided to the Government, a local authority or a governmental authority, in respect of construction of govt. schools, hospitals etc. and construction of ports, airports restored with some conditions.
11. Services provided by way of construction, maintenance etc. of canal, dam or other irrigation works provided to bodies set up by Government but not necessarily by an Act of Parliament or a State Legislature exempted with certain conditions
12. Educational services (with some exceptions) provided by IIMs exempted.
13. Changes in Reverse Charge Mechanism (RCM)
 - a. Services provided by mutual fund agent/distributor to a mutual fund or asset management company removed from RCM
14. Reduction in rates of interest to 15% flat (small service providers 12%), other than in cases where service tax has been collected but not deposited (in which case it is 24%)
15. Abatements and conditions thereon on many services amended w.e.f. 1/4/2016
16. Indirect Tax Dispute Resolution Scheme, 2016, introduced in respect of cases pending before Commissioner (Appeals), the assessee, after paying the duty, interest and penalty equivalent to 25% of duty.
17. Point of Taxation Rules, 2011, to be amended, in case of deciding point of taxation for services provided or to be provided
18. Time limit for filing of refund in export cases clarified
19. Tax on IT software, sold on RSP and Not for Retail sale rationalized so that only one of Excise or Service Tax is levied
20. Banks and other financial institutions can reverse credit in respect of exempted services on actual basis in addition to the option of 50% reversal

21. Limitation period increased from 18 months to 30 months for short levy/non levy/short payment/non-payment/erroneous refund of Service Tax

22. Monetary limit for launching prosecution is being increased from Rs. 1 crore to Rs. 2 crore of Service Tax evasion.

EXCISE

1. Section 11A is being amended so as to increase the period of limitation from one year to two years in cases not involving fraud, suppression of facts, willful mis-statement, etc.

2. Some Items that will become costlier:

- a. Mineral water
- b. Cold drinks
- c. Tobacco and Tobacco products
- d. Readymade garments
- e. Precious metals and jewellery
- f. Air fares (subsequent to increase in ATF)
- g. Mobile phones

3. Some Items that will become cheaper:

- a. Refrigerated containers for food processing
- b. Fertilisers
- c. Footwear
- d. Centrifugal pump
- e. Hybrid electric vehicles
- f. Dialysis equipments
- g. Ready mix concrete

4. Clean Energy Cess has been renamed as Clean Environment Cess, increased from Rs. 200/tonne to Rs. 400/tonne

5. Infrastructure cess levied on motor vehicles ranging from 1% to 4%

6. Number of excise related returns reduced from an effective 27 to 13, i.e. 12 monthly and 1 yearly

7. Provision of revising excise related returns introduced

8. Where invoices are digitally signed, the manual attestation of copy of invoice, meant for transporter, is not required

9. In case of finalization of provisional assessment, the interest will be chargeable from the original date, of payment of duty

10. CENVAT Credit Rules, 2004 has seen major amendments.

11. Reduction in rates of interest to 15% from 18%

INCOME TAX

1. Rates of income-tax - Surcharge @12% if Income exceeds 1 Crore with marginal relief.

2. Dividend Tax- any income by way of dividend in excess of Rs.10 lakh shall be chargeable to tax in the case of an individual, Hindu undivided family (HUF) or a firm who is resident in India, at the rate of ten (10) percent.

3. STT- It is proposed to increase the STT rate from 0.017 per [cent.to](#) 0.05 per cent where option is not exercised.

4. Section 206C- Tax Collection at Source (TCS) on sale of vehicles, goods or services- It is proposed that the seller shall collect the tax at the rate of one per cent from the purchaser on sale of motor vehicle of the value exceeding ten lakh rupees (Rs.10 Lakh) and sale in cash of any goods (other than bullion and jewellery), or providing of any services (other than payments on which tax is deducted at source under Chapter XVII-B) exceeding two lakh rupees.(Rs.2 Lakh).

5. Phasing out of deductions and exemptions in Section 10AA, 35AC, 35CCD, 80IA, 80IAB and 80IB, 32 & 35 of the IT Act.

6. Sec 80JJAA amended-Tax incentive for employment generation

7. Section 47 of the Income-tax Act amended so as to provide that any redemption of Sovereign Gold Bond under the Scheme, by an individual shall not be treated as transfer and therefore shall be exempt from tax on capital gains with indexation benefit.

8. Section 48 of the Act amended so as to provide that the capital gains, arising in case of appreciation of rupee between the date of issue and the date of redemption against the foreign currency in which the investment is made shall be exempt from tax on capital gains.

9. 80GG amended so as to increase the maximum limit of deduction from existing Rs. 2000 per month to Rs. 5000 per month.

10. Section 56- any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not attract the provisions of clause (vii) of sub-section (2) of section 56.

11. Section 87A- Rebate increased from Rs.2000 to Rs.5000.

12. Modification in conditions of special taxation regime for off shore funds Section 9A.

13. Sec 44ADA –Presumptive taxation for Profession 50% if total gross receipts does not exceed Rs.50 Lakhs.

14. Sec 44AD- Limit increased from Rs.1 Crore to Rs.2 Crore.

15. Sec 36- Provisioning for Bad Debts for NBFC Companies.

16. The Income Declaration Scheme, 2016

17. The Direct Tax Dispute Resolution Scheme, 2016

18. Rationalization of tax deduction at source provisions relating to payments by Category-I and Category-II Alternate Investment Funds to its investors.

19. Sec 43B included payments made to Railways.
Set-off : No set off of any loss shall be allowable in respect of income under the sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D.

20. Time limit for carry forward and set off of such loss under section 73A of the Income-tax Act.

21. Rationalization of tax deduction at Source (TDS) provisions in section 192A, 194BB, 194C, 194LA, 194D, 194G, 194H, 194DA, 194EE, 194K & 194L.

22. Sec 50C in case of Registration of Immovable Properties.- where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of computing the full value of consideration.

Rationalization of conversion of a company into Limited Liability Partnership (LLP)
Rationalisation of tax treatment of Recognised Provident Funds, Pension Funds and National Pension Scheme.

23. Filing of return of Income, Processing under section 143(1) be mandated before assessment, Rationalisation of time limit for assessment, reassessment and recomputation.

24. Rationalisation of time limit for assessment in search cases.

25. Rationalisation of advance tax payment schedule under section 211 and charging of interest under section 234C.

26. Rationalisation of penalty provisions

Just to reiterate that we remain available over a telecom or e-mail.

Truly Yours

Timir Baran Chatterjee

M.Com, FCS, MBA (International Business)-IIFT, ACMA

Vivek Jalan

FCA, CIFT (ICAI), B. Com

DIRECT TAXES – INCOME TAX

- **Clause 3 of Finance Bill 2016 –**

Section 2(14) (vi) of Income Tax Act 1961 bringing Gold Monetisation Scheme, 2015 under the purview of capital asset: Deposit certificates issued under the Gold Monetisation Scheme, 2015 have been brought under the purview of capital asset.

Section 2 (23C) of Income Tax Act 1961 adding definition of “hearing”: A new definition is inserted which did not exist in the old Act which is “hearing includes communication of data and documents through electronic mode”. This is possibly to provide the required legal backing to e-assessments.

Section 2 (24) (xviii) of Income Tax Act 1961: A new sub clause is inserted in the definition of income which includes the subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or a State Government.

Section 2 (37A) (iii) of Income Tax Act 1961 making amendment in definition of "rate or rates in force"
:New sections section 194LBB and section 194LBC have been included in the definition of rates in force for the purpose of deduction of tax with effect from 01-06-2016.

- **Clause 4 of Finance Bill 2016 seeks to amend section 6 of the Income-tax Act relating to residence in India:** It is proposed to amend clause (3) of the said section so as to provide that a company shall be said to be resident in India, in any previous year, if —
(a) it is an Indian company; or
(b) its place of effective management, in that year, is in India.

- **Clause 5 of Finance Bill 2016 seeks to amend section 9 of the Income-tax Act relating to income deemed to accrue or arise in India:** In case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India through or from the activities which are confined to the display of uncut and unsorted diamond in any special zone notified by the Central Government in the Official Gazette in this behalf.
This amendment will take effect retrospectively from 1st April, 2016 and will, accordingly, apply in relation to assessment year 2016-2017 and subsequent years.

- **Clause 6 of Finance Bill 2016 clause seeks to amend section 9A of the Income tax Act relating to certain activities not to constitute business connection in India:** It is proposed to amend clause (b) of the said sub-section so as to provide that the eligible investment fund also means a fund established or incorporated or registered in a country or a specified territory notified by the Central Government in this behalf.

- **Clause 7 of Finance Bill 2016 relating to incomes not included in total income:** This clause seeks to amend section 10 of the Income tax Act relating to incomes not included in total income. It is proposed to amend the said clause (12) so as to provide that nothing contained in this clause shall apply in respect of any amount of accumulated balance, attributable to any **contributions made on or after the 1st day of April, 2016 by an employee other than an excluded employee, exceeding 40%** of such accumulated balance due and payable in accordance with provisions of rule 8 of Part A of the Fourth Schedule.

It is further proposed to insert a new clause (12A) in the said section so as to provide that **any payment from the National Pension System Trust to an employee on closure of account or his opting out of the pension scheme referred to in section 80CCD, to the extent it does not exceed 40%** of the total amount payable to him at the time of closure or his opting out of the scheme referred to in section 80CCD, shall be exempt from tax to the extent it does not exceed 40% of the total amount payable to him at the time of closure or his opting out of the scheme, shall be exempt from tax.

It is also proposed to amend clause (13) of the said section so as to provide that any payment in **commutation of an annuity purchased out of contributions made on or after the 1st day of April, 2016, which exceeds forty per cent of the annuity, shall be chargeable to tax.** The said clause also seeks to provide that any payment from an approved superannuation fund by way of transfer to the account of the employee under a pension scheme referred to in section 80CCD notified by the Central Government shall be exempt from tax.

The said clause also seeks to provide that any payment from an approved superannuation fund by way of transfer to the account of the employee under a **pension scheme referred to in section 80CCD** notified by the Central Government shall be exempt from tax.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to assessment year 2017-2018 and subsequent years.

Sub-clause (B) of the said clause seeks to amend clause (15) of the said section so as to provide that the **interest on deposit certificates issued under the Gold Monetisation Scheme, 2015 notified by the Central Government shall also be exempted from income-tax.**

This amendment will take effect retrospectively from 1st April, 2016 and will, accordingly, apply in relation to assessment year 2016-2017 and subsequent years.

It is also proposed to amend clause (34) of the said section so as to provide that any income by way of **dividend in excess of ten lakh rupees** shall not be exempt from tax in the case of an individual, Hindu undivided family or a firm.

It is also proposed to amend clause (38) of the said section so as to provide for exemption from capital gains tax in case of income arising from transaction undertaken on a recognised stock exchange located in the International Financial Services Centre and the consideration for such transaction is paid or payable in foreign currency.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017- 2018 and subsequent years.

- **Clause 8 of Finance Bill 2016 amend section 10AA of the Income tax Act relating to special provisions in respect of newly established Units in Special Economic Zones:** It is proposed to amend sub-section (1) of the said section 10AA w.e.f.01-04-2017 so as to provide that the deduction under this section is available only for an entrepreneur whose unit begins to carryout above referred activity before the 1st day of April, 2021.
- **Clause 9 of Finance Bill 2016 relating to “Salary”, “perquisite” and “profits in lieu of salary”:** It is proposed to amend the said sub-section so as to increase the limit of employer’s contribution from Rs 1 Lakh to Rs 1.5 Lakh w.e.f.01-04-2017 and will apply in relation to assessment year 2017-2018 onwards.

- **Clause 10 of Finance Bill 2016 relating to deductions from income from house property:** It is proposed to amend the second proviso to S 24(b) so as to provide that the deduction of an amount of Rs 2 Lakh under the said proviso shall be allowed if the acquisition or construction is completed within 5 years from the end of the financial year in which the capital was borrowed.
- **Clause 11 of Finance Bill 2016 relating to deduction of subsequent realisation of unrealised rent:** This clause seeks to substitute sections 25A, 25AA and 25B of the Income-tax Act with a new section 25A. It is proposed that 30% of the arrears of rent or the unrealised rent realised subsequently by the assessee shall be allowed as deduction w.e.f.01-04-2017 and will apply to the assessment year 2017-2018 and subsequent years.
- **Clause 12 of Finance Bill 2016 amending section 28 of the Income tax Act relating to “Profits and gains of business or profession”:** It is proposed to amend the said clause w.e.f. 01-04-2017 in relation to assessment year 2017-2018 and onwards to provide that any sum received or receivable, in cash or kind, under an agreement, for not carrying out any activity in relation to any profession, shall also be income chargeable to income-tax under the head “Profits and gains of business or profession”.
- **Clause 13 of Finance Bill 2016 to amend section 32 of the Income tax Act relating to depreciation:** This clause seeks to amend section 32 of the Income tax Act relating to depreciation. It is proposed to amend the said clause (iia) so as to provide that the deduction under the said clause shall also be allowed to the business of transmission of power along with business of manufacture or production of any article or thing or in the business of generation or generation and distribution of power w.e.f. 01-04-2017 and will apply in relation to assessment year 2017-2018 and onwards.
- **Clause 14 of Finance Bill 2016 seeks to amend section 32AC of the Income tax Act relating to investment in new plant or machinery:** It is proposed to amend the said sub-section so as to provide that the deduction under the said sub-section shall be allowed if the assets are installed on or before the 31st March, 2017. It is further proposed to insert a new proviso in the said subsection w.e.f.01-04-2016 and will apply in relation to assessment year 2016-2017 and onwards so as to provide that where the installation of the new assets are in a year other than the year of acquisition, the deduction under the said sub-section shall be allowed in the year in which such new assets are installed.

- **Clause 15 of Finance Bill 2016 seeks to amend section 35 of the Income tax Act relating to expenditure on scientific research:** This clause seeks to amend section 35 of the Income tax Act relating to expenditure on scientific research.

As per section 1(ii), any sum paid to a scientific research association which has the object of undertaking scientific research or to a university, college or other institution to be used for scientific research, **weighted deduction is to be reduced to 150% from 175% from FY 2017-18 to FY 2019-20 and further reduce it to 100% from FY 2020-21 onwards.**

It is proposed to amend the clause (iia) so as to **reduce the said weighted deduction from 125% to 100%** from financial year 2017-2018 and subsequent years.

It is proposed to amend the clause (iii) so as to **reduce the said weighted deduction from 125% to 100%** from financial year 2017-2018 and subsequent years.

It is proposed to amend the clause (1) (2AB) so as to reduce the said weighted deduction from **200% to 150%** from financial year 2017-2018 and subsequent years.

- **Clause 16 of Finance Bill 2016 seeks to insert a new section 35ABA in the Income-tax Act relating to expenditure for obtaining right to use spectrum for telecommunication services:** The proposed section further seeks to provide that the provisions contained in sub-sections (2) to (8) of section 35ABB, shall apply as if for the word “licence”, the word “spectrum” had been substituted.
- **Clause 17 of Finance Bill 2016 seeks to amend section 35AC of the Income tax Act relating to expenditure on eligible projects or schemes:** It is proposed to insert a new sub-section (7) in the aforesaid section so as to provide that the deduction under this section shall not apply, in respect of any assessment for the assessment year commencing on the 1st day of April, 2018.
- **Clause 18 of Finance Bill 2016 seeks to amend section 35AD of the Income tax Act relating to deduction in respect of expenditure on specified business:** It is proposed to amend sub-section (2) of the said section 35AD so as to provide the deduction under this section to an assessee engaged in developing, operating and maintaining or developing, operating and maintaining the infrastructure facility.

- **Clause 19 of Finance Bill 2016 seeks to amend section 35CCC of the Income-tax Act relating to expenditure on agricultural extension project :** It is proposed to amend the said section so as to reduce the deduction from 150% to 100% w.e.f. 01-04-2018 and shall apply in relation to the assessment year 2018-2019 and subsequent years.
- **Clause 20 of Finance Bill 2016 seeks to amend section 35CCD of the Income-tax Act relating to expenditure on skill development project:** It is proposed to amend the said section so as to reduce the deduction from 150% to 100% from the assessment year beginning on or after the 1st day of April, 2021.
- **Clause 21 of Finance Bill 2016 seeks to amend section 36 of the Income tax Act relating to other deductions:** It is proposed to insert a new sub-clause (d) in clause (viiia) of sub-section (1) of the aforesaid section so as to provide that any provision for bad and doubtful debts made by a non-banking financial company shall be allowed a deduction of an amount not exceeding five per cent of the total income (computed before making any deduction under this clause and Chapter VI-A). It is also proposed to define the expression “non-banking financial company”.
- **Clause 22 of Finance Bill 2016 to amend section 40 of the Income tax Act relating to amounts not deductible:** It is proposed to insert a new sub-clause (ib) in clause (a) of the aforesaid section so as to provide that any consideration paid or payable to a non-resident for a specified service on which equalisation levy is deductible under Chapter VIII of the Finance Act, 2016, and such levy has not been deducted, or, after deduction, has not been paid on or before the due date specified in subsection (1) of section 139.
- **Clause 23 of Finance Bill 2016 seeks to amend section 43B of the Income tax Act relating to certain deductions to be only on actual payment:** It is proposed to insert a new clause in the said section so as to provide that any sum payable by the assessee to the Indian Railways for use of railway assets shall be allowed as deduction only, if it is actually paid on or before the due date of furnishing the return of income of the relevant previous year w.e.f. 01-04-2017
- **Clause 24 of Finance Bill 2016 seeks to amend section 44AA of the Income tax Act relating to maintenance of accounts by certain persons carrying on profession or business:** It is proposed to amend the sub-section (2) of the aforesaid section so as to provide that every

person carrying on the business shall, if the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax, keep and maintain such books of account and other documents for computing his total income in accordance with the provisions of this Act.

- **Clause 25 of Finance Bill 2016 seeks to amend section 44AB of the Income tax Act relating to audit of accounts of certain persons carrying on business or profession:** It is proposed to amend the said clause (b) so as to increase the threshold limit to fifty lakh rupees.

Sub-clause (iii) of the said clause seeks to insert a new clause (e) in the said section so as to provide that every person carrying on the business shall, if the provisions of sub-section (4) of section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax, keep and maintain such books of account and other documents for computing his total income in accordance with the provisions of this Act.

- **Clause 26 of Finance Bill 2016 Bill seeks to amend section 44AD of the Income-tax Act relating to special provision for computing profits and gains of business on presumptive basis:** The scheme will apply to such residential assessee who is an individual, Hindu undivided Family or partnership firm but not Limited Liability Partnership firm, whose total gross receipts does not exceed two crores rupees.

- **Clause 27 of Finance Bill 2016 seeks to insert a new section 44ADA in the Income-tax Act relating to special provision for computing profits and gains of profession on presumptive basis:** The proposed new section 44ADA seeks to provide that notwithstanding anything contained in sections 28 to 43C, in the case of an assessee, being a resident in India, **who is engaged in a profession referred to in sub-section (1) of section 44AA and whose total gross receipts do not exceed fifty lakh rupees in a previous year, a sum equal to fifty per cent** of the total gross receipts of the assessee in the previous year on account of such profession, or as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the assessee, shall be deemed to be the profits and gains of such profession chargeable to tax under the head "Profits and gains of business or profession".

- **Clause 28 of Finance Bill 2016 seeks to amend section 47 of the Income tax Act relating to transactions not regarded as transfer:** Clause 28 of the Bill Sub-clause

(B) of the said clause seeks to insert a new clause (ea) in clause (xiib) of the said section so as to **provide a condition in addition to the existing conditions, that the value of the total assets in books of accounts of the company in any of the three previous years preceding the previous year in which its conversion into Limited Liability Partnership takes place does not exceed five crore rupees.**

- **Clause 29 of Finance Bill 2016 seeks to amend section 48 of the Income tax Act relating to mode of computation:** It is proposed to amend section 48 so as to **provide indexation benefits to long-term capital gains arising on transfer of the said Sovereign Gold Bond.**

It is further proposed to provide that in case of an **assessee being a non-resident, any gains arising on account of appreciation of rupee** against a foreign currency at the time of redemption of rupee denominated bond of an Indian company subscribed by him, **shall be ignored** for the purpose of computation of full value of consideration under the said section.

- **Clause 30 of Finance Bill 2016 seeks to amend section 50C of the Income tax Act relating to special provision for full value of consideration in certain cases:** It is proposed to amend the said sub-section so as to provide that **where the date of the agreement fixing the amount of consideration and the date of registration for the transfer of the capital asset are not the same**, the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer.

It is further proposed to provide that the said proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of the agreement of transfer.

- **Clause 31 of Finance Bill 2016 seeks to insert a new section 54EE in the Income-tax Act relating to capital gain not to be charged on investment in units of specified fund:** It is proposed to insert section 54EE so as to provide **exemption from capital gains tax if the capital gains proceeds are invested by an assessee in units of specified fund**, as may be notified by the Central Government in this behalf.

- **Clause 32 of Finance Bill 2016 seeks to amend section 54GB in the Income tax relating to Capital gain on transfer of residential property not to be charged in certain cases:** It is proposed to amend section 54GB so as to provide that **capital gains arising on account of transfer of a residential property shall not be charged to tax** if such capital gains is invested in subscription of shares of a company which qualifies to be an eligible start-up subject to other specified conditions.
- **Clause 33 of Finance Bill 2016 seeks to amend section 55 of the Income tax relating to meaning of “adjusted”, “cost of improvement” and “cost of acquisition”:** It is proposed to amend the said sub-clause (1) of clause (b) of sub-section (1) and clause (a) of sub-section (2) of the said section so as to include the **right to carry on the profession also under its scope.**
- **Clause 34 of Finance Bill 2016 seeks to amend section 56 of the Income tax Act relating to income from other sources:** It is proposed to amend the said section so as to provide exemption from tax in the hands of an individual or a Hindu undivided family, on receipt of shares as a consequence of demerger or amalgamation of a company.
- **Clause 35 of Finance Bill 2016 seeks to amend section 80 of the Income tax Act relating to submission of return for losses:** It is proposed to amend the said section 80 so as provide that the **loss under sub-section (2) of section 73A shall also be not allowed to be carried forward and set off if such loss has not been determined in pursuance of a return filed in accordance with the provisions of sub-section (3) of section 139.**
- **Clause 36 of Finance Bill 2016 seeks to amend section 80CCD of the Income-tax Act relating to deduction in respect of contribution to pension scheme of Central Government:** It is proposed to amend the sub-section so as to provide that **any amount received by the nominee, on the death of the assessee**, under the pension scheme referred to in clause (a) of the said sub-section, is exempt from tax.
- **Clause 37 of Finance Bill 2016 seeks to substitute section 80EE of the Income-tax Act relating to deduction in respect of interest on loan taken for residential house property:** It is proposed to substitute the said section so as to provide **a deduction for those who buy residential house property for the first time, in respect of interest on loan taken from any financial institution upto fifty thousand rupees** subject to other

conditions specified therein. It is proposed to extend the benefit of deduction till repayment of loan continues.

- **Clause 38 of Finance Bill 2016 seeks to amend section 80GG of the Income-tax Act relating to deductions in respect of rents paid:** It is proposed to increase the maximum amount of deduction allowable under the said section to **five thousand rupees per month.**
- **Clause 39 of Finance Bill 2016 seeks to amend section 80-IA of the Income tax Act relating to deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc:** It is proposed to amend the said section so as to provide that this section shall not apply to any enterprise which starts the development or operation and maintenance of the infrastructure facility on or after the 1st day of April, 2017.
- **Clause 40 of Finance Bill 2016 seeks to amend section 80-IAB of the Income-tax Act relating to deductions in respect of profits and gains by an undertaking or enterprise engaged in development of Special Economic Zone:** It is proposed to amend the said section so as to provide that this section shall not apply to any enterprise which commences the business activity on or after the 1st day of April, 2017.
- **Clause 41 of Finance Bill 2016 seeks to insert a new section 80-IAC in the Income-tax Act relating to Special provisions in respect of specified business:** It is proposed to amend the Income-tax Act so as to provide a **deduction of one hundred per cent of the profits and gains derived by an eligible start-up** from a business involving innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property. The benefit of deduction of hundred per cent of the profit derived from such business can be availed by an eligible start-ups for three consecutive assessment years out of five years, at the option of the assessee, subject to incorporation before 1st day of April, 2019.
- **Clause 42 of Finance Bill 2016 seeks to amend section 80-IB of the Income tax Act relating to deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings:** It is proposed to amend clauses (ii), (iv) and (v) of the said subsection so as to provide that such clauses of the said section shall not apply to any enterprise which commences the business activity on or after the 1st day of April, 2017.

- **Clause 43 of Finance Bill 2016 seeks to insert a new section 80-IBA in the Income-tax Act relating to deductions in respect of profits and gains from housing project:** The proposed new section seeks to provide for hundred per cent deduction of the profits and gains of an assessee developing and building housing projects, if the project is approved by the competent authority on or before the 31st March, 2019 subject to the conditions specified therein. The assessee is required to complete the said project within three years failing which the entire deduction claimed in previous years shall be deemed as his income.
- **Clause 44 of Finance Bill 2016 seeks to substitute a new section for section 80JJAA of the Income-tax Act relating to deduction in respect of employment of new employees:** It is proposed to extend the benefit to all assesseees who are required to get their accounts audited under section 44AB. Further, it is also proposed to liberalise the eligibility condition relating to minimum number of persons employed and the total number of days for which they must be employed during the year.
- **Clause 45 of Finance Bill 2016 seeks to amend section 87A of the Income tax Act relating to rebate of income-tax in case of certain individuals:** It is proposed to increase the amount of rebate allowable under the said section from the existing **two thousand rupees to five thousand rupees**.
- **Clause 46 of Finance Bill 2016 seeks to amend section 92CA of the Income tax Act relating to reference to Transfer Pricing Officer:** It is proposed to amend sub-section (3A) of the aforesaid section so as to provide that in the circumstances referred to in clause (ii) or clause (viii) of Explanation (1) to section 153, **if the period of limitation available to the Transfer Pricing Officer for making an order is less than sixty days, then such remaining period shall be extended to sixty days**. This amendment will take effect from 1st June, 2016.
- **Clause 47 of Finance Bill 2016 seeks to amend section 92D of the Income tax Act relating to maintenance and keeping of information and document by persons entering into an international transaction or specified domestic transaction:** It is proposed to amend the said section so as to provide that the person being a constituent entity of an international group, referred to in section 286, shall also keep and maintain such information and document in respect of the international group as may be prescribed.
- **Clause 48 of Finance Bill 2016 seeks to amend section 112 of the Income tax Act relating to tax on long-term capital gains:** It is proposed to amend the said sub-clause (iii) so as to provide that **long-term capital gains arising from transfer of a capital asset being, shares of a company not being a company in which the public are substantially interested, shall also be chargeable to tax at the rate of ten per cent**.
- **Clause 49 of Finance Bill 2016 seeks to insert a new section 115BA in the Income-tax Act relating to tax on income of certain domestic companies:** Sub-section (1) of the proposed new section provides that the **income-tax payable in respect of the total income of a person being domestic company**, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2017 shall, at the option of such person, be computed at the rate of 25%, if the conditions contained in sub-section (2) of the said section are satisfied.
- **Clause 50 of Finance Bill 2016 seeks to insert a new section 115BBDA in the Income-tax Act relating to tax on certain dividends received from domestic companies:** It is proposed to insert a new section 115BBDA in the said Act so as to provide that any income by way of dividend declared, distributed or paid by a domestic company, **in excess of ten lakh rupees shall be chargeable to tax at the rate of ten per cent** in the case of an individual, Hindu undivided family or a firm who is a resident in India.

It is further proposed to provide that no deduction in respect of any expenditure or allowance or set off of loss shall be allowed in computing the income by way of dividend and to define the term dividends.
- **Clause 68 of the Finance Bill 2016 substitutes section 153 of the Income-tax Act with a new section relating to time limit for completion of assessment, reassessment and recomputation.** It is proposed to substitute the existing section 153 to simplify the said section by retaining only those provisions that are relevant to the current provisions.
- **Clause 69 of the Finance Bill 2016 substitutes the section 153B of the Income-tax Act by a new section 153B relating to time limit for completion of assessment under section 153A and 153C.**
- **Clause 70 of the Finance Bill 2016 amends section 192A of the Income tax Act relating to payment of accumulated balance due to an employee.**
- **Clause 71 of the Finance Bill 2016 amend section 194BB of the Income-tax Act relating to winnings from horse race.** Under the existing provisions of the

aforesaid section, any person responsible for paying to any person any income by way of winning from horse race in excess of five thousand rupees shall deduct income-tax on such payment at the rates in force. It is proposed to enhance the said threshold limit from five thousand rupees to ten thousand rupees. This amendment will take effect from 1.6. 2016.

- **Clause 72 of the Finance Bill 2016 amends section 194C of the Income tax Act relating to payments to contractors**
- **Clause 73 of the Finance Bill 2016 amend section 194D of the Income tax Act relating to insurance commission.** It is proposed to reduce the said threshold limit from twenty thousand rupees to fifteen thousand rupees. This amendment will take effect from 1.6.2016.
- **Clause 74 of the Finance Bill 2016 amend section 194DA of the Income-tax Act relating to payment in respect of life insurance policy.**
- **Clause 75 of the Finance Bill 2016** amend section 194EE of the Income-tax Act relating to payments in respect of deposits under National Savings Scheme, etc. Under the existing provisions of the aforesaid section, any payment in respect of deposits under National Savings Scheme, etc., shall be liable for tax deduction at the rate of 20%. in case such amount exceeds two thousand five hundred rupees. It is proposed to reduce the said rate of tax deduction from 20% to 10%. This amendment will take effect from 1.6. 2016.
- **Clause 76 of the Finance Bill 2016 amend section 194G of the Income tax Act relating to commission, etc., on the sale of lottery tickets.**
- **Clause 77 of the Finance Bill 2016 amend section 194H of the Income tax Act relating to commission or brokerage.**
- **Clause 78 of the Finance Bill 2016 omits section 194K relating to income in respect of units and section 194L relating to payment of compensation on acquisition of capital asset, of the Income-tax Act with effect from 1st June, 2016.**
- **Clause 79 of the Finance Bill 2016 amend section 194LA of the Income-tax Act relating to payment of compensation on acquisition of certain immovable property.**
- **Clause 80 of the Finance Bill 2016 amends section 194LBA of the Income-tax Act relating to certain income from units of a business trust.**
- **Clause 81 of the Finance Bill 2016 amends section 194LBB of the Income-tax Act relating to income in respect of units of investment fund.**
- **Clause 82 of the Finance Bill 2016 inserts a new section 194LBC in the Income-tax Act relating to**

income in respect of investment in securitisation trust.

- **Clause 83 of the Finance Bill 2016 amend section 197 of the Income tax Act relating to certificate for deduction at lower rate.**
- **Clause 84 of the Finance Bill 2016 amend section 197A of the Income tax Act relating to no deduction to be made in certain cases**
- **Clause 85 of the Finance Bill 2016 amend section 206AA of the Income-tax Act relating to requirement to furnish Permanent Account Number.**
- **Clause 86 of the Finance Bill 2016 amends section 206C of the Income tax Act relating to profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.**
- **Clause 87 of the Finance Bill 2016 amends section 211 of the Income tax Act relating to instalments of advance tax and due dates.**
- **Clause 88 of the Finance Bill 2016 amend section 220 of the Income tax Act relating to when tax payable and when assessee is deemed in default.**
- **Clause 89 of the Finance Bill 2016 amend section 234C of the Income-tax Act relating to interest for deferment of advance tax.**
- **Clause 90 of the Finance Bill 2016 amend section 244A of the Income tax Act relating to interest on refunds.**
- **Clause 91 of the Finance Bill 2016 amend section 249 of the Income tax Act relating to form of appeal and limitation.** Section 249 (2)(b) provides that an appeal before the Commissioner (Appeals) is to be made within thirty days of the receipt of the notice of demand relating to an assessment order. It is proposed to provide that in a case where the assessee makes an application under section 270AA of the Income-tax Act seeking immunity from penalty and prosecution, then, the period beginning from the date on which such application is made to the date on which the order rejecting the application is served on the assessee shall be excluded for calculation of the aforesaid thirty days period. This amendment will take effect from the 1.4.2017.
- **Clause 92 of the Finance Bill 2016 amend section 252 of the Income tax Act relating to Appellate Tribunal.** Clause (b) of sub-section (3), sub-section (4A) and sub-section (5) of the aforesaid section provide for the appointment and powers of Senior Vice-President of the Appellate Tribunal. It is proposed to omit the reference of "Senior Vice-President" in the aforesaid provisions. These amendments will take effect from 1.6.2016.
- **Clause 93 of the Finance Bill 2016 amend section 253 of the Income tax Act relating to appeals to the Appellate Tribunal:**

- **Clause 94 of the Finance Bill 2016 amends section 254 of the Income tax Act relating to orders of Appellate Tribunal:** Sub-section (2) of the said section provides that the Appellate Tribunal may rectify any mistake apparent from the record in its order at any time within four years from the date of the order. It is proposed to amend the said sub-section (2) so as to provide that the Appellate Tribunal may rectify any mistake apparent from the record in its order at any time within six months from the end of the month in which the order was passed. It is further proposed to amend sub-section (2A) of the aforesaid section, so as to omit the reference of sub-section (2A) of section 253. The proposed amendment is consequential in nature in view of omission of sub-section (2A) of section 253. These amendments will take effect from 1.6.2016.
- **Clause 95 of the Finance Bill 2016 amend section 255 of the Income tax Act, relating to the procedure of Appellate Tribunal:** Sub-section (3) of the aforesaid section, *inter alia*, provides that a single member bench may dispose of any case which pertains to an assessee whose total income as computed by the Assessing Officer does not exceed fifteen lakh rupees. It is proposed to amend the said sub-section (3) so as to provide that a single member bench may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifty lakh rupees. This amendment will take effect from 1.6.2016.
- **Clause 96 of the Finance Bill 2016 insert section 270A in the Income tax Act relating to penalty for under-reporting and misreporting of income**
- **Clause 97 of the Finance Bill 2016 insert a new section 270AA in the Income-tax Act relating to immunity from imposition of penalty etc**
- **Clause 98 of the Finance Bill 2016 amends section 271 of the Income tax Act relating to failure to furnish returns, comply with notices, concealment of income, etc**
- **Clause 99 of the Finance Bill 2016 amends section 271A of the Income tax Act relating to failure to keep, maintain or retain books of account, documents, etc:** The aforesaid section provides for penalty in case of failure to keep and maintain any such books of account and other documents as required under section 44AA or the rules made there under, or to retain books of account or documents for the period specified. It is proposed to amend the said section so as to provide that section 271A shall be applicable without prejudice to the provisions
- of section 270A. The proposed amendment is consequential to the insertion of a new section 270A in the Income-tax Act which provides for levy of penalty for under-reporting and misreporting of income. This

amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-2018 and subsequent years.

- **Clause 100 of the Finance Bill 2016 amend section 271AA of the Income-tax Act relating to penalty for failure to keep and maintain information and document, etc., in respect of certain transactions**
- **Clause 101 of the Finance Bill 2016 amends section 271AAB of the Income-tax Act relating to penalty where search has been initiated**
- **Clause 102 of the Finance Bill 2016 insert a new section 271GB in the Income-tax Act relating to penalty for failure to furnish report or for furnishing inaccurate report under section 286:**
- **Clause 103 of the Finance Bill 2016 amend section 272A of the Income-tax Act relating to penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc:**
- **Clause 104 of the Finance Bill 2016 amend section 273A of the Income-tax Act relating to power to reduce or waive penalty, etc., in certain cases:**
- **Clause 105 of the Finance Bill 2016 amends section 273AA of the Income-tax Act relating to power of Principal Commissioner or Commissioner to grant immunity from penalty:** The aforesaid section, *inter alia*, provide that the Principal Commissioner or the Commissioner may grant immunity from penalty, if penalty proceedings have been initiated in case of a person who has made application for settlement before the settlement commission and the proceedings for settlement had abated under the circumstances contained in section 245HA of the Act. It is proposed to amend the said section to provide that an order accepting or rejecting the application of an assessee shall be passed by the concerned Principal Commissioner or Commissioner within a period of twelve months from the end of the month in which such application is received. It is further proposed to provide that no order shall be passed without giving the assessee an opportunity of being heard. However, in respect of applications pending as on 1st day of June, 2016, the order shall be passed on or before 31st May, 2017. This amendment will take effect from 1st June, 2016.
- **Clause 106 of the Finance Bill 2016 amend section 273B of the Income-tax Act relating to penalty not to be imposed in certain cases:** The aforesaid section provides that the penalties referred to in different sections enumerated in the said section 273B shall not be imposable on the person or the assessee for any failure referred to in the said sections, if he proves that there was reasonable cause for the said failure.

- It is proposed to amend the said section so as to include the reference of the proposed new section 271GB.
- This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-2018 and subsequent years.
- **Clause 107 of the Finance Bill 2016 amends section 279 of the Income tax Act relating to prosecution to be at instance of Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner:**
- **Clause 108 of Finance Bill 2016 seeks to amend section 281B of the Income-tax Act relating to provisional attachment to protect revenue in certain cases:** The aforesaid section provides that the Assessing Officer has the power to provisionally attach any property of the assessee during the pendency of assessment or reassessment proceedings, for a period of six months, with the prior approval of the income tax authorities specified therein, if he is of the opinion that it is necessary to do so for the purpose of protecting the interests of the revenue. Such attachment of property is extendable by the said income-tax authorities to a maximum period of two years or sixty days after the date of assessment order, whichever is later.
- **Clause 109 of Finance Bill 2016 seeks to amend section 282A of the Income-tax Act relating to authentication of notices and other documents:** It is proposed to amend the said sub-section (1) so as to provide that notices and documents required to be issued by income-tax authority under the Act shall be issued by such authority either in paper form or in electronic form in accordance with such procedure as may be prescribed.
- **Clause 110 of Finance Bill 2016 seeks to insert a new section 286 in the Income-tax Act relating to furnishing of report in respect of international group:** The proposed section provides for furnishing of a report in respect of an international group, if the parent entity of the group is resident in India.
- **Clause 111 of the Finance Bill 2016 amends section 288 of the Income-tax Act regarding representing assessee before any income-tax authority:** The clause has amended Sec 288(4) Clause (b), which earlier barred an Authorized Representative [convicted of offence

relating to income-tax proceedings or on whom penalty for failure to comply with notices & directions specified has been imposed u/s 272A (1)(d)] to represent an assessee before any income-tax authority or the Appellate Tribunal. The said clause has been amended so as to provide that a person (as stated above) shall also not be barred to represent an assessee before any authorities stated above. The amendment shall apply in relation to the assessment year 2017-2018 and subsequent years shall be applicable w.e.f. 1st April, 2017.

- **Clause 112 of the Finance Bill 2016 amends the Fourth Schedule to the Income-tax Act, in Part A, w.e.f. 1st day of April, 2017 regarding inclusion of Employer's contributions to RPF in total income of employee:** The clause has introduced the limit of Rs 1,50,000 for the purpose of inclusion of Employer's contributions to RPF in total income of employee in Rule 6 & brought more clarity in Rule 8 by substituting the words "such other employer " by "such other employer; or " in clause (iii) & has also inserted a new Clause (iv) after Clause (iii).

INDIRECT TAXES – SERVICE TAX

- **Clause 145 of Finance Bill 2016 amends Section 65B(44) of the Finance Act, 1994 w.r.t. taxability of lottery agents who are agents of state government** - Section 4(c) of the Lotteries (Regulation) Act, 1998 provides that the State Government shall sell the tickets either itself or through distributors or selling agents. Thus, as per the provisions of the Lotteries (Regulation) Act, 1998, the transaction between the State Government and the distributors or selling agents is on principal to agent basis. Any contract contrary to the aforesaid legal provisions is ultra vires the provisions of Indian Contracts Act, 1872 and thus not legally enforceable. Explanation 2 in section 65B(44) is proposed to be amended to clarify that activity carried out by a lottery distributor or selling agents of the State Government under the provisions of the Lotteries (Regulation) Act, 1998 (17 of 1998), is leviable to service tax.

- **Clause 146 of Finance Bill 2016 amends Section 66D of the Finance Act, 1994 amends the negative list w.r.t. education related services:** The changes proposed in the Negative List in Section 66 D are as follows:

(A) Presently, clause (I) of section 66D of the Act [Negative List] covers specified educational services. These services are proposed to be omitted from the Negative List but the service tax exemption on them is being continued by incorporating them in the general exemption notification (Notification No. 25/2012-ST as amended by notification No. 09/2016-ST, dated 1st March, 2016 refers). Consequently, the definition of „approved vocational education course“ [clause (11) of section 65B] is also proposed to be omitted from the Finance Act and is being incorporated in the general exemption notification (Notification No. 25/2012-ST as amended by notification No. 09/2016-ST, dated 1st March, 2016 refers). This amendment in the notification shall come into effect from the date of enactment of Finance Bill, 2016.

(B) The Negative List entry that covers “service of transportation of passengers, with or without accompanied belongings, by a stage carriage” is proposed to be omitted [section 66D (o)(i)] with effect from 1.06.2016. Clause 146 of Finance Bill 2016 may please be seen. As a consequence, the above services become taxable with effect from 1.06.2016. However, such services by a non-air-conditioned contract carriage will continue to be exempted by way of

exemption notification [Notification No. 25/2012-ST, as amended by notification No. 09/2016-ST, dated 1st March, 2016 refers]. The service of transportation of passengers by air-conditioned stage carriage is being taxed at the same level of abatement (60%) as applicable to the transportation of passengers by a contract carriage, with same conditions of non-availment of Cenvat credit. [notification No. 08/2016-St dated 29th February, 2016 refers]

- (C) The entry in the Negative List that covers services by way of transportation of goods by an aircraft or a vessel from a place outside India up to the customs station of clearance [section 66D (p)(ii)] is proposed to be omitted with effect from 1.06.2016. Clause 146 of Finance Bill 2016 may please be seen in this regard. However such services by an aircraft will continue to be exempted by way of exemption notification [Not. No. 25/2012-ST, as amended by notification No. 09/2016-ST dated 1st March, 2016 refers]. The domestic shipping lines registered in India will pay service tax under forward charge while the services availed from foreign shipping line by a business entity located in India will get taxed under reverse charge at the hands of the business entity. The service tax so paid will be available as credit with the Indian manufacturer or service provider availing such services (subject to fulfillment of the other existing conditions). It is clarified that service tax levied on such services shall not be part of value for custom duty purposes.

In addition, Cenvat credit of eligible inputs, capital goods and input services is being allowed for providing the service by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India. Consequential amendments are being made in Cenvat Credit Rules, 2004 [Not. No. 23/2004-CE (N.T.), as amended by Sl. Nos. 2(b) and 5(h) of notification No. 13/2016-C.E. (N.T.) dated refers.]

- **Clause 147 of Finance Act, 2016 amends the Declared Service List u/s Section 66 E of the Finance Act, 1994 w.r.t. right to use the radio-frequency spectrum:** Assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof is proposed to be declared as a service under section 66E of the Finance Act, 1994 so as to make it clear that assignment by Government of the right to use the spectrum as well as subsequent transfers of

assignment of such right to use is a service leviable to service tax and not sale of intangible goods.

- **Clause 149 of Finance Bill, 2016 amends Section 73 of Finance Act, 1994 w.r.t. increasing limitation period from 18 months to 30 months:** The limitation period for recovery of service tax not levied or paid or short-levied or short paid or erroneously refunded, for cases not involving fraud, collusion, suppression etc. is proposed to be enhanced by one year, that is, from eighteen months to thirty months by making suitable changes to section 73 of the Finance Act, 1994.
- **Clause 150 of Finance Bill, 2016 amends Section 75 of Finance Act, 1994 w.r.t. higher rate of interest in certain cases:** Section 75 of the Finance Act is proposed to be amended so that a higher rate of interest would apply to a person who has collected the amount of service tax from the service recipient but not deposited the same with the Central Government.
- **Clause 151 of Finance Bill, 2016 amends Section 78A of Finance Act, 1994 w.r.t. deemed closing of proceedings on specified persons as certain proceedings close u/s 76 & u/s 78:** It is proposed to provide that penalty proceedings under section 78A shall be deemed to be closed in cases where the main demand and penalty proceedings have been closed under section 76 or section 78, by making suitable changes to section 78A by addition of an explanation.
- **Clause 152 of Finance Bill, 2016 amends Section 89 of Finance Act, 1994 w.r.t. monetary limit for filing complaints:** The monetary limit for filing complaints for punishable offences is proposed to be enhanced to Rs. 2 crore.
- **Clause 153 & 154 of Finance Bill, 2016 amends Section 90 & 91 of Finance Act, 1994 w.r.t. power to arrest:** The power to arrest in service tax law is proposed to be restricted only to situations where the tax payer has collected the tax but not deposited it with the exchequer, and amount of such tax collected but not paid is above the threshold of Rs 2 crore. Sections 90 and 91 of the Finance Act, 1994 are being amended accordingly.
- **Clause 156 of Finance Act, 2016 inserts Section 101 to the Finance Act, 1994 w.r.t. certain works done for canal, dam or other irrigation work and provided to Government Authority:** Thus, the exemption for services by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of canal, dam or other irrigation work provided to Government Authority (according to the amended definition vide N No 2/2014) will now be granted for the period 20.06.2016 to 29.01.2014 by the way of refund of

service tax so collected earlier. Refund of Service Tax paid on the said services during the period from the 1st July, 2012 to 29.01.2014 shall also be allowed in accordance with the law including the law of unjust enrichment. Application for refund may be allowed to be filed within a period of six months from the date on which the Finance Bill, 2016 receives the assent of the President.

- **Clause 156 of Finance Act, 2016 inserts Section 102 to the Finance Act, 1994 w.r.t. the exemptions withdrawn vide N No. 6/2015:** The exemptions withdrawn vide N No. 6/2015 through an amendment to Entry No. 12 of Mega Exemption Notification No. 25/2012 Dated 20.06.2012 has been restored for the period 01.04.2015 to 29.02.2016. The refund of services tax so collected from such services would be refunded back provided claim is made within a period of six months from the date on which the Finance Bill, 2016 receives the assent of the President.
- **Clause 156 of Finance Act, 2016 inserts Section 103 to the Finance Act, 1994 w.r.t. original works pertaining to-an airport:** The exemptions withdrawn vide N No. 6/2015, (from Entry No. 14 of Mega Exemption Notification No. 25/2012 Dated 20.06.2012) relating to services by way of construction, erection, commissioning, or installation of original works pertaining to-an airport, has been restored for the period 01.04.2015 to 29.02.2016. The refund would be granted for a contract which had been entered into before the 1st day of March, 2015 and on which appropriate stamp duty where applicable, had been paid before that date.
The refund of services tax so collected from such services would be refunded back provided claim is made within a period of six months from the date on which the Finance Bill, 2016 receives the assent of the President.
- **Clause 157 of Finance Bill 2016 w.r.t. taxable services used beyond factory or production/manufacturing premises in case of excisable goods for exports:** Rebate would be granted by way of refund of service tax paid on **taxable services used beyond factory or production/manufacturing premises** in case of excisable goods for exports. Notification No. 41/2012-ST, dated the 29th June, 2012 was amended vide notification No.1/2016-ST dated 3rd February, 2016 so as to, inter alia, allow refund of service tax on services used beyond the factory or any other place or premises of production or manufacture of the said goods, for export of the said goods. The said amendment is being given retrospective effect from the date of application

of the parent notification, i.e., from 01.07.2012. Time period of one month is proposed to be allowed to the exporters whose claims of refund were earlier rejected in absence of amendment carried out vide notification No.1/2016-ST dated 3rd February, 2016. The claim of rebate of such amount of service tax shall be made within the period of one month from the date of commencement of the Finance Act, 2016.

Exemptions (Notification No. 9/2016-ST, dated 1st March, 2016)

No More exempt –

From 1.3.2016

1. Construction, erection, commissioning or installation of original works pertaining to monorail or metro in respect of contracts entered into on or after 1.3.2016.

From 1.4.2016

1. Legal –

- a. Services provided by a senior advocate to an advocate or partnership firm of advocates, and
- b. A person represented on an arbitral tribunal to an arbitral tribunal;

2. Transport of passengers, with or without accompanied belongings, by ropeway, cable car or aerial tramway

Now Exempt –

From 1.3.2016

1. **construction, erection etc.** of a civil structure or any other original works pertaining to the “In-situ Rehabilitation of existing slum dwellers using land as a resource through private participation” component of Housing for All (HFA) (Urban) Mission / Pradhan Mantri Awas Yojana (PMAY), except in respect of such dwelling units of the projects which are not constructed for existing slum dwellers.

2. **Construction, erection etc.,** of a civil structure or any other original works pertaining to the “Beneficiary-led individual house construction / enhancement” component of Housing for All (HFA) (Urban) Mission/ Pradhan Mantri Awas Yojana (PMAY)

3. **Construction, erection, etc., of original works pertaining to low cost houses** up to a carpet area of 60 sq.m per house in a housing project approved by the

competent authority under the “Affordable housing in partnership” component of PMAY or any housing scheme of a State Government.

4. **Services provided by the Indian Institutes of Management (IIM)** by way of 2 year full time Post Graduate Programme in Management (PGPM) (other than executive development programme), admissions to which are made through Common Admission Test conducted by IIMs, 5 year Integrated Programme in Management and Fellowship Programme in Management.

From 1.4.2016

1. **Services of life insurance** business provided by way of annuity under the National Pension System (NPS) regulated by Pension Fund Regulatory and Development Authority (PFRDA) of India.

2. **Services provided by Securities and Exchange Board of India (SEBI)** by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.

3. Services provided by **Employees Provident Fund Organisation (EPFO)** to employees.

4. Services provided by **Biotechnology Industry Research Assistance Council (BIRAC)** approved biotechnology incubators to the incubates.

5. Services provided by **National Centre for Cold Chain Development under Department of Agriculture, Cooperation and Farmer's Welfare**, Government of India, by way of knowledge dissemination.

6. Services provided by **Insurance Regulatory and Development Authority (IRDA).**

7. **Services of general insurance** business provided under „Niramaya“ Health Insurance scheme launched by National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability in collaboration with private/public insurance companies.

8. The threshold exemption limit of consideration charged for services provided by a **performing artist in folk or classical art forms** of music, dance or theatre, is being increased from Rs 1 lakh to Rs 1.5 lakh per performance.

9. Services provided by way of skill/vocational training by **Deen Dayal Upadhyay Grameen Kaushalya Yojana** training partners.

10. Services of assessing bodies empanelled centrally by **Directorate General of Training, Ministry of Skill Development & Entrepreneurship**.

From 1.6.2016

1. **Services by way of transportation of goods by an aircraft from a place outside India** up to the customs station of clearance in India were in negative list of services [clause (p)(ii) of section 66D]. As this entry is proposed to be omitted through the Finance Bill 2016. The said service is being exempted by amending notification No.25/2012-ST.

2. Services by a **stage carriage** were in the negative list of services [clause (o) (i) of section 66D]. As this entry is proposed to be omitted through the Finance Bill 2016. A new entry is being inserted in notification No.25/2012-ST so as to exempt services by a stage carriage other than air conditioned stage carriage

Abatements (N No. 26/2012-ST as amended vide N No. 8/2016-ST dated 1.03.2016)

From 1.4.2016

1. In cases where the **tour operator** is providing services solely of arranging or booking accommodation for any person in relation to a tour, abatement of 90% is available with specified conditions. However, this abatement of 90% cannot be claimed in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such accommodation. There is no change in the rate of abatement or the conditions required to be fulfilled for claiming the said abatement.

2. Abatement rates in respect of services by a tour operator in relation to a tour other than above, is being rationalised from 75% and 60% to 70%. Consequently, the definition of “package tour” as provided in the relevant notification is being omitted.

3. Services provided by **foreman to a chit fund** under the Chit Funds Act, 1982 are proposed to be taxed at an abated value of 70% [i.e., with abatement of 30%], subject to the condition that Cenvat credit of inputs, input services and capital goods has not been availed.

4. At present, there is abatement of 60% on the gross value of **renting of motor-cab services**, provided no cenvat credit has been taken. It is being made clear by way of inserting an explanation in the notification No. 26/2012-ST that cost of fuel should be included in the

consideration charged for providing renting of motor-cab services for availing the abatement.

5. A uniform abatement at the rate of 70% is now being prescribed for services of **construction** of complex, building, civil structure, or a part thereof, subject to fulfilment of the existing conditions.

6. W.r.t. service of **transport of passengers by rail**, cenvat credit of input services can now be availed in addition to abatement of 70%.

7. W.r.t. service of **transport of goods by rail** (other than “transport of goods in containers by rail by any person other than Indian Railway”) cenvat credit of input services can now be availed in addition to abatement of 70%.

A reduced abatement rate of 60% with credit of input services is being prescribed for transport of goods in containers by rail by any person other than Indian Railway.

8. W.r.t. service of **transport of goods by vessel** cenvat credit of input services can now be availed in addition to abatement of 70%.

9. Abatement on **transport of used household goods by a Goods Transport Agency (GTA)** is being rationalised at the rate of 60% without availment of cenvat credit on inputs, input services and capital goods by the service provider (as against abatement of 70% allowed on transport of other goods by GTA).

Reverse Charge Mechanism

1. Mutual Fund Agent

Services provided by mutual fund agents/distributor to a mutual fund or asset management company are being put under forward charge, i.e. the service provider is being made liable to pay service tax.

Accordingly, Rule 2(1)(d)(EEA) of Service Tax Rules, 1994 making service recipient, that is, mutual fund or Asset Management Company as the person liable for paying service tax is being deleted along with consequential changes in notification No. 30/2012-ST.

2. Service provided by Government or a local authority

The liability to pay service tax on any service provided by Government or a local authority to business entities shall be on the service recipient.

Consequently, notification No. 30/2012-ST is being amended so as to delete the words „by way of support services” appearing at Sl. No. 6 of the Table in the said

notification with effect from 1 April, 2016. Further, 1 April, 2016 is being notified as the date from which the words „by way of support services“ shall stand deleted from paragraph 1, clause A (iv), item (C) of notification No. 30/2012-ST.

Service Tax Rules

1. **Quarterly payment** of service tax and payment of service tax on receipt basis to be extended to **One Person Company (OPC)** whose aggregate value of services provided is up to Rs. 50 lakh in the previous financial year.

Quarterly payment of service tax extended to HUF also.

2. The service tax liability on single premium annuity (insurance) policies is being rationalised and the effective alternate service tax rate (composition rate) is being prescribed at 1.4% of the total premium charged, in cases where the amount allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service. Amendments are being made in rule 7A of Service Tax Rules, 1994 accordingly.

Interest Rates Slashed (Notification Nos. 13 and 14/2016-ST dated 1 March, 2016)

From date of President Assent

Interest rates on delayed payment of duty/tax across all indirect taxes is proposed to be made uniform at 15%, except in case of service tax collected but not deposited with the Central Government, in which case the rate of interest will be 24% from the date on which the service tax payment became due.

In case of assessee, whose value of taxable services in the preceding year/years covered by the notice is less than Rs. 60 Lakh, the rate of interest on delayed payment of service tax will be 12%

Indirect tax Dispute Resolution Scheme, 2016

Indirect tax Dispute Resolution Scheme, 2016, wherein a scheme in respect of cases pending before Commissioner (Appeals), the assessee, after paying the duty, interest and penalty equivalent to 25% of duty, can file a declaration, is being introduced. In such cases the proceedings against the assessee will be closed and he will also get immunity from prosecution.

However, this scheme will not apply in certain specified type of cases.

Annual Return in Service Tax –

Service tax assessee above a certain threshold will also be required to file an annual return. This change shall come into effect from 1 April, 2016.

Cenvat Credit Rules, 2004 effective from 01.04.2016

1. Rule 2, clause (a) sub-clause (A) item (i) and condition No. (1)

Wagons of sub heading 8606 92 of the Central excise Tariff and equipment and appliance used in an office located within a factory are being included in the definition of capital goods so as to allow Cenvat credit on the same.

2. Rule 2 clause (a), sub-clause (A) condition (1A) and clause (k) sub-clause (ii)

CENVAT credit on inputs and capital goods used for pumping of water, for captive use in the factory, is being allowed even where such capital goods are installed outside the factory.

3. Rule 2 clause (k)

All capital goods having value up to Rs. 10000/- per piece are being included in the definition of inputs.

4. Rule 2 (e)

Service by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India is being excluded from the definition of exempted service. Thus CENVAT can be availed on inputs & input services.

5. Rule 4(5) (b)

Manufacturer of final products is being allowed to take CENVAT credit on tools of Chapter 82 of the Central Excise Tariff in addition to credit on jigs, fixtures, moulds & dies, when intended to be used in the premises of job-worker or another manufacturer who manufactures the goods as per specification of manufacturer of final products. It is also being provided that a manufacturer can send these goods directly to such other manufacturer or job-worker without bringing the same to his premises.

6. Rule 4(6) – permission given by an AC/DC valid for 3 FYs

Presently, the permission given by an Assistant Commissioner or Deputy Commissioner to a manufacturer of the final products for sending inputs or partially processed inputs outside his factory to a job-

worker and clearance there from on payment of duty is valid for a financial year. It is being provided that the same would be valid for three financial years.

7.Rule 4(7) -

CENVAT credit of Service Tax paid on amount charged for assignment by Government or any other person of a natural resource such as radio-frequency spectrum, mines etc. shall be spread over the period of time for which the rights have been assigned. It is also being provided that where the manufacturer of goods or provider of output service further assigns such right to use assigned to him by the Government or any other person, in any financial year, to another person against a consideration, balance CENVAT credit not exceeding the service tax payable on the consideration charged by him for such further assignment, shall be allowed in the same financial year. It is also being provided that CENVAT credit of annual or monthly user charges payable in respect of such assignment shall be allowed in the same financial year.

8.Rule 6 – Reversal incase of manufacture of exempt & non-exempt goods and rendering of exempt & non-exempt services –

Rule 6(3) – Options to a manufacturer of exempt & non-exempt goods and rendering of exempt & non-exempt services

In case of manufacture of exempt & non-exempt goods and rendering of exempt & non-exempt services the assessee has 2 options –

(a) pay an amount equal to six per cent of value of the exempted goods and seven per cent of value of the exempted services, subject to a maximum of the total credit taken or

(b) pay an amount as determined under sub-rule (3A).

The maximum limit prescribed in the first option would ensure that the amount to be paid does not exceed the total credit taken

Rule 6 (3A) – provisional payment for each month

It provide the procedure and conditions for calculation of credit allowed and credit not allowed and directs that such credit not allowed shall be paid, provisionally for each month.

Rule 6 (3AA) – Permission to an assessee who has failed to follow the procedure u/r 6

A manufacturer or a provider of output service who has failed to follow the procedure of giving prior intimation, may be allowed by a Central Excise officer, to follow the procedure and pay the amount prescribed subject to payment of interest @ 15% p.a.

Rule 6 (3AB) – Transitional Provision

Transitional provision to provide that the existing rule 6 of CCR would continue to be in operation upto 30.06.2016, for the units who are required to discharge the obligation in respect of financial year 2015-16.

Rule 6 (3B)- Reversal Option for Banks

Allows banks and other financial institutions to reverse credit in respect of exempted services on actual basis in addition to the option of 50% reversal.

Rule 6 (4) - Capital goods are used for the manufacture of exempted goods or provision of exempted service

Where the capital goods are used for the manufacture of exempted goods or provision of exempted service for two years from the date of commencement of commercial production or provision of service, no CENVAT credit shall be allowed on such capital goods. Similar provision is being made for capital goods installed after the date of commencement of commercial production or provision of service.

Rule 6 (7) – Cenvat for transportation of goods by a vessel

Credit taken on inputs and input services used in providing a service by way of “transportation of goods by a vessel from customs station of clearance in India to a place outside India” shall not be required to be reversed by the shipping lines.

Rule 7 - Input Service Distributor Mechanism overhauled

Allows an ISD to distribute the input service credit to an outsourced manufacturing unit also.

ISD shall distribute CENVAT credit in respect of service tax paid on the input services to its manufacturing units or units providing output service or to outsourced manufacturing units subject to, inter alia, the following conditions –

- credit attributable to a particular unit shall be attributed to that unit only.

- credit attributable to more than one unit but not all shall be to attributed to those units only and not to all units.

- credit attributable to all units shall be attributed to all the units.

Credit shall be distributed pro rata on the basis of turnover as is done in the present rules.

Rule 7B – Manufacturers with multiple manufacturing units

Manufacturers with multiple manufacturing units to maintain a common warehouse for inputs and distribute inputs with credits to the individual manufacturing units. It is also being provided that a manufacturer having one or more factories shall be allowed to take credit on inputs received under the cover of an invoice issued by a warehouse of the said manufacturer, which receives inputs under cover of an invoice towards the purchase of such inputs. Procedure applicable to a first stage dealer or a second stage dealer would apply, mutatis mutandis, to such a warehouse of the manufacturer.

Rule 9 – Invoice issued by a service provider for clearance

Invoice issued by a service provider for clearance of inputs or capitals goods shall also be a valid document for availing CENVAT credit.

Rule 9A – Annual Return

Filing of an annual return by a manufacturer of final products or provider of output services for each financial year, by the 30th day of November of the succeeding year

Rule 14(2) – Determining Utilization of Cenvat

Whether a particular credit has been utilised or not shall be ascertained by examining whether during the period under consideration, the minimum balance of credit in the account of the assessee was equal to or more than the disputed amount of credit, not under FIFO as provided earlier.

KRISHI KALYAN CESS

Clause 158 of Finance Bill 2016: Introduction of Krishi Kalyan Cess

A new cess, called Krishi Kalyan Cess would be levied w.e.f. 01.06.2016 on all or any taxable service. The cess would be levied at the rate of 0.5%. The proceeds would be credited to Consolidated Fund of India and after appropriation would be directed towards improvement

of agriculture by financing and promoting agricultural initiatives and related issues.

This would be a separate cess levied in addition to other cess or service tax leviable on taxable services under the Finance Act, 1994 or any other law for time being in force. The provisions and rules for refunds, exemptions, interest, penalty for the levy and collection of Krishi Kalyan Cess would be same as provided for in Chapter V of Finance Act, 1994.

INDIRECT TAXES - CUSTOMS

- **Clause 113 of Finance Bill 2016 -AMENDMENT IN SECTION 2 OF THE CUSTOMS ACT, 1962:** The amendment seeks to insert the words, “a special warehouse licensed under section 58A” and widens the scope the of the definition of “Warehouse” defined under clause (43) under section 2 of The Customs Act,1962. The amendment also omits the definition of warehousing station under clause (45) of section 2 of The Customs Act,1962.
- **Clause 114 of Finance Bill 2016 – Amendment in Chapter III of The Customs Act, 1962:** The amendment seeks to omit the words “Warehousing Stations” from the heading of the Chapter III of The Customs Act, 1962 (“Appointment of Customs Ports, Airports, Warehousing Stations, etc.”)
- **Clause 115 of Finance Bill 2016 - Omission of Section 9 of The Customs Act, 1962:** Section 9 empowering the Board to declare places to be warehousing stations has been omitted.
- **Clause 116 of Finance Bill 2016 – Amendment in Section 25 of The Customs Act, 1962:** As per the amendment, clause (b) u/s 25(4) has been omitted. Therefore, the notifications issued u/s 25(1) & 25(2A) for exemption of duty need not be published and offered for sale any more on the date of its issue by the Directorate of Publicity and Public Relations of the Board, New Delhi [as required by Section 25(4)(b)].The referred notifications shall (unless otherwise provided) come into force on the date of its issue by the Central Government for publication in the Official Gazette [as required by Section 25(4)(a)].
- **Clause 117 of Finance Bill 2016 – Amendment in Section 28 of The Customs Act, 1962:** In the Customs Act, in section 28, in the marginal heading, for the words “duties not levied or short-levied”, the words “duties not levied or not paid or short-levied or short-paid” shall be substituted. The amendment provides for recovery of duty in situations where the duty has been levied but not paid or has been short-paid also. This clause further extends the limitation period for investigation of cases not involving any collusion, wilful misstatement or suppression of facts from 1 year to 2 years.
- **Clause 118 of Finance Bill 2016 – Amendment in Section 47 of The Customs Act, 1962:** This clause seeks to amend Section 47(1) and empower the Central Government to permit certain class of importers specified by notification to make deferred payment of duty or other charges in the manner provided by the rules. It also amends Section 47(2) and empower the Central Government to fix the rate of interest (10%-36%/annum) where importer fails to pay import duty either in full or in part within two days from the date specified therein.
- **Clause 119 of Finance Bill 2016 – Amendment in Section 51 of The Customs Act, 1962:** This amendment provides for renumbering section 51 of the Customs Act as sub-section (1) thereof and empower the Board to permit certain class of exporters specified by notification to make deferred payment of duty or any charges in the manner provided by rules. It also inserts a new section and empower the Central Government to fix the rate of interest (5%- 36%/annum) where the exporter fails to pay export duty either in full or in part within the date specified by rules.
- **Clause 120 of Finance Bill 2016 – Amendment in Section 53 of The Customs Act, 1962:** The amendment seeks to authorise proper officer to allow transit of certain goods and conveyance without payment of duty, subject to the conditions specified by the Board by regulations
- **Clause 121 of Finance Bill 2016 – Amendment in Section 57of The Customs Act, 1962:** This amendment seeks to vest the power to license a public warehouse with the Principal Commissioner of Customs or Commissioner of Customs which earlier vested with the Assistant Commissioner of Customs [or Deputy Commissioner of Customs] at any warehousing station.
- **Clause 122 of Finance Bill 2016 – Amendment in Section 58 of The Customs Act, 1962:** This clause seeks to substitute new sections 58, 58A and 58B for section 58 of the Customs Act and vests the powers with the Principal Commissioner of Customs or Commissioner of Customs which earlier vested with the Assistant Commissioner of Customs [or Deputy Commissioner of Customs]. The substituted sections vest with the Principal Commissioner of Customs or Commissioner of Customs, the power to license a private warehouse, to license a special warehouse , to cancel a licence granted under section 57 or section 58 or section 58A,

if the licensee has contravened any provision or breached any of the conditions of the licence.

- **Clause 123 of Finance Bill 2016 – Amendment in Section 59 of The Customs Act, 1962:** The amendment provides for the importer of goods (in respect of which a bill of entry for warehousing has been presented under section 46 and assessed to duty under section 17 or section 18) to furnish a security (in the manner specified therein) along with the execution of a bond.
- **Clause 124 of Finance Bill 2016 – Amendment in Section 60 of The Customs Act, 1962:** The substituted section 60 seeks to provide for permission for removal of goods from a customs station for the purpose of deposit in a warehouse.
- **Clause 125 of Finance Bill 2016 - Amendment in Section 61 of The Customs Act, 1962:** A new section has been proposed for section 61 of the Customs Act so as to specify the period for which goods may remain warehoused.
- **Clause 126 of Finance Bill 2016 - Omission of, sections 62 and 63:** Section 62 is being omitted since the conditions for exercising control over the warehoused goods are being provided under sections 57, 58 and 58A. Section 63 relating to payment of rent and warehouse charges is being omitted in view of the privatization of services, and free market determination of rates.
- **Clause 127 of Finance Bill 2016 – Amendment in Section 64 of The Customs Act, 1962:** The warehoused goods could earlier be dealt only by sanction of the proper officer on payment of certain fees. The new section 64 of the Customs Act seeks to make provisions for owner's right to deal with the goods after warehousing the same and rationalize the facilities and rights extended under the section.
- **Clause 128 of Finance Bill 2016 – Amendment in Section 65 of The Customs Act, 1962:** The amended Section 65(1) under the Customs Act, empowers Principal Commissioner or Commissioner of Customs to permit supervision of manufacturing facilities under Bond without payment of any fees. Earlier the same was possible with the sanction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs and on payment of such fees.
- **Clause 129 of Finance Bill 2016 – Amendment in Section 68 of The Customs Act, 1962:** The substituted

section provides that any warehoused goods may be cleared from the warehouse for home consumption if the import duty, interest, fine and penalties payable in respect of such goods have been paid. Also, the words “rent, interest, other charges and” occurring in the first proviso has been deleted.

- **Clause 130 of Finance Bill 2016 – Amendment in Section 69 of The Customs Act, 1962:** The amended section substitute the word “exportation” with the word “export and provides that warehoused goods may be exported to a place outside India without payment of import duty if the export duty, fine and penalties payable in respect of such goods have been paid.
- **Clause 131 of Finance Bill 2016 – Amendment in Section 71 of The Customs Act, 1962:** The word “re-exportation” has been substituted with the the word “export” in the amended Section 71.
- **Clause 132 of Finance Bill 2016 – Amendment in Section 72 of The Customs Act, 1962:** In Section 72 of the Customs Act clause (c) has been omitted, the word “exportation” has been substituted with the word “export”. Also, the word “select” has been substituted with the words “deem fit” in sub-section (2) thereof to substitute.
- **Clause 133 of Finance Bill 2016 – Amendment in Section 73 of The Customs Act, 1962:** The amendment seeks to insert the word “transferred or” after the words “exported or” in Section 73.
- **Clause 134 of Finance Bill 2016 – Insertion of new section 73A:** The new section 73A of the Customs Act provides for the custody and removal of warehoused goods and responsibilities and liabilities of warehouse keepers.
- **Clause 135 of Finance Bill 2016 amends section 156 of The Customs Act, 1962 relating to General power to make rules:** This clause of the Bill seeks to insert sub-clause (c) in subsection (2) of section 156 of the Customs Act so as to empower the Central Government to make rules to provide for the due date and the manner of making deferred payment of customs duties, taxes, cess or any other charges.
- **Clause 136 of Finance Bill 2016 amends section 25 of The Customs Act, 1962 relating to power to grant**

exemption from duty: This Clause of the Bill seeks to amend the notifications issued under sub-section (1) of section 25 of the Customs Act vide numbers G.S.R. 367 (E) , dated the 27th April, 2000; 292(E), dated the 19th April, 2002; 281 (E), dated the 1st April, 2003; 604 (E),dated the 10th September, 2004; 606(E), dated the 10th September, 2004; 260 (E), dated the 1st May, 2006 in the manner specified in the Second Schedule retrospectively from the date respectively specified against them in column (4) of that Schedule, so as to correct the reference to “section 8” in those notifications as “section 8B”.

CUSTOMS TARRIF

- **Clause 137 of Finance Bill 2016 amends section 25 of The Customs Tariff Act, 1975 relating to special duty on goods imported from republic of China:** Clause 137 of the Bill seeks to omit section 8C of the Customs Tariff Act as the provision which was inserted for a period of 10 years has lapsed
- **Clause 138 of Finance Bill 2016 amended the following chapters in the First Schedule of The Customs Tariff Act, 1975, as specified in the Third schedule and fourth schedule of the Finance Bill, 2016:** Chapters - 27, 40, 58, 71, 76, 79, 84, 85, 90, 95, 3,, 4, 5, 8, 12, ,13, 16,19, 20, 21, 2227, 28, 29, 30 , 37, 38, 39, 42, 44, 48, 54, 55, 56, 57, 60, 63, 68, 69, 74, 82, 83, 84, 85, 90, 92, 94, 95, 96

INDIRECT TAXES – CENTRAL EXCISE

- **Clause 139 of Finance Bill 2016 amended Section 5A of Central Excise Act, 1944 and omitted the requirement of publishing and offering for sale any notification issued, by the Directorate of Publicity and Public Relations of CBEC:** Section 5A(5) has been substituted to provide that every notification issued under sub-section (1) or sub-section (2A) shall, unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette and omitted the requirement of publishing and offering for sale any notification issued, by the Directorate of Publicity and Public Relations of CBEC.
- **Clause 140 of Finance Bill 2016 amended Section 11A of Central Excise Act, 1944 to extend the limitation period for investigation of cases not involving any collusion, willful misstatement or suppression of facts from 1 year to 2 years:** In Section 11A for the words “one year”, wherever they occur, the words “two years” shall be substituted to increase the period of limitation from one year to two years in cases not involving fraud, suppression of facts, etc.
- **Clause 141 of Finance Bill 2016 amend Section 37B of Central Excise Act, 1944 regarding empowering the Board to issue orders, instructions and directions for the implementation of any other provision of the said Act:** In section 37B for the words “such goods”, the words “such goods or for the implementation of any other provision of this Act” shall be substituted
- **Clause 142 of Finance Bill 2016 In the Central Excise Act, the Third Schedule shall be amended**

(as specified in the Seventh Schedule of the Finance Bill, 2016)

- for S. Nos. 40 and 41 and the entries relating thereto, entries shall be substituted- 3401, 3402 for all goods
- after S. No. 63 and the entries relating thereto, entries shall be inserted, namely 63A - 7607 for all goods
- after S. No. 81C and the entries relating thereto, entries shall be inserted, namely 80D - 8517 62 for

Wrist wearable devices (commonly known as smart watches)

- against S.No. 100, in column (3) - for the words “Parts, components and assemblies”, the words “Parts, components, accessories and assemblies” shall be substituted
- against S.No. 100A, in column (3) - for the words “Parts, components and assemblies”, the words “Parts, components, accessories and assemblies” shall be substituted

(as specified in the Sixth Schedule, with effect from the 1st day of January, 2017)

- against S. No. 58, for the entry in column (3) - the entry “vitrified tiles, whether polished or not, glazed tiles” shall be substituted.
- S. No. 59 and the entries relating thereto - Omitted.

- **Clause 143 of Finance Bill 2016 amends the following chapters in the First Schedule of the Central Excise Tariff Act, 1985**

(as specified in the Seventh Schedule of the Finance Bill, 2016)

- Chapter 22, the entries in column (4) occurring against tariff items 2202 10 10, 2202 10 20 and 2202 10 90, the entry “21%” shall be substituted
- Chapter 24, 27 & 71
- Chapter 85, in heading 8525, the tariff item 8525 50 50 and the entries relating thereto

(as specified in the Eighth Schedule, with effect from the 1st day of January, 2017)

- Chapter 3, in heading 0301, 0302, 0303, 0304, 0305, 0306, 0307 & 0308
- Chapter 4, Chapter 5
- Chapter 8, in heading 0805
- in Chapter 12, for heading 1211
- in Chapter 13, in heading 1302
- in Chapter 16
- in Chapter 19, for sub-heading 1901 10
- in Chapter 20
- in Chapter 21
- in Chapter 22, for heading 2202, 2204 & 2206
- in Chapter 27, for heading 2707 & Sub-heading Note 4
- in Chapter 28, for heading 2811, 2812, 2848, 2853 & Note 7

- in Chapter 29, for heading 2903, 2904, 2910, 2914, 2918, 2920, 2921, 2922, 2923, 2924, 2926, 2930, 2931, 2932, 2933, 2935, 2937 & 2939
- in Chapter 30, for heading 3002, 3003 & 3004
- in Chapter 31, for heading 3103
- in Chapter 37, for heading 3705
- in Chapter 38, for heading 3808, 3812 & 3824
- in Chapter 39, for heading 3901, 3907 & 3909
- in Chapter 40, for heading 4011,
- in Chapter 42, for heading 4202,
- in Chapter 44, for 4401, 4403, 4406, 4407, 4408, 4409, 4412, 4418, 4419, 4421, 4422, 4423, 4424
- in Chapter 48
- in Chapter 54, for heading 5402
- in Chapter 55, for heading 5502, 5506,
- in Chapter 56, for heading 5601
- in Chapter 57, for heading 5704
- in Chapter 60, for heading 6005
- in Chapter 63, for heading 6304
- in Chapter 68
- in Chapter 69, for heading 6907 & 6908
- in Chapter 74
- in Chapter 82
- in Chapter 83, for heading 8308
- in Chapter 84, for heading 8415, 8424, 8432, 8442, 8456, 8459, 8460, 8465, 8466, 8472 & 8473
- in Chapter 85, for heading 8528, 8531, 8539 & 8541
- in Chapter 87, for heading 8701, 8702, 8703 & 8711
- in Chapter 90,
- in Chapter 94, for heading 9401 & 9406
- in Chapter 95
- in Chapter 96

• Clause 144 of Finance Bill 2016: In the Central Excise Tariff Act, the Second Schedule shall be amended (As specified in the Ninth Schedule, with effect from the 1st day of January, 2017)

- in heading 4011, 5402, 8415, 8702 & 8703

MISCELLANEOUS

• Clause 159, Finance Bill: Infrastructure cess

A new chapter Chapter VII has been inserted for levy of Infrastructure Cess,

- For financing infrastructure projects, a duty of excise called Infrastructure cess has been introduced.
- It shall be levied @ of 1% on small petrol, LPG, CNG cars, 2.5% on diesel cars of certain capacity and 4% on other higher engine capacity vehicles and SUVs
- It shall be levied on the manufacturing or production of motor vehicles specified under heading 8703 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) i.e. on motor cars and other motor vehicles principally designed for the transport of less than 10 persons, including station wagons and racing cars.
- The cess shall be collected for Union and shall not be distributed among the States.
- All the provisions of the Central Excise Act, 1944 and the rules made there under, as applicable for the existing duties of excise on such goods, shall be applicable for Infrastructure cess.
- "Notification No. 01 - Infrastructure Cess" dated 01.03.2016 has been issued to provide the effective rates of infrastructure Cess on specified goods

• Clause 160-177 of Finance Bill: Equalisation levy

A new chapter Chapter VIII has been inserted for levy, collection and recovery of "Equalisation levy".

- The equalization levy shall be charged @6% of the consideration for specified services received or receivable by a non-resident from a person resident in India and carrying on business or profession or from a non-resident having a permanent establishment in India.
- No such levy shall be made, if the non-resident service provider has a permanent establishment in India and the specified services are effectively connected to this permanent establishment.
- No levy if such consideration is not for the purpose of carrying out business or profession

- No levy if the consideration does not exceed Rs. 10 lacs
- The same shall be deducted at source and deposited to the Government by 7th of next month.

• Clauses 178 to 196, Finance Bill: Income Declaration Scheme, 2016

A new chapter IX has been inserted relating to Income Declaration Scheme, 2016

- Income Declaration Scheme provides for declaration of undisclosed income by any person.
- The scheme shall be in operation from 01.06.2016 till a date to be notified by the Central Government.
- The undisclosed income declared in the scheme shall be charged a tax @ 30%, a surcharge @ 25% of such tax as Krishi Kalyan Cess and penalty @ 25% of such tax.

• Clauses 197 to 208: Finance Bill: Direct Tax Dispute Resolution Scheme, 2016

A new chapter X has been inserted relating to Direct Tax Dispute Resolution Scheme, 2016

- The scheme provides for provisions relating to the particulars to be furnished in the form of declaration, time and manner of payment, granting of immunity from initiation of proceedings in respect of an offence and imposition of penalty in certain cases etc.
- The scheme shall be in operation from 01.06.2016 till a date to be notified by the Central Government.

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