

# Budget -2013

## Highlights of Service Tax

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# **A. Changes Applicable from the date of Enactment of Finance Bill, 2013**

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# HIGHLIGHT OF CHANGES IN SERVICE TAX

## Scope of negative list enlarged

### **I) Exemption to Vocational Courses - Section 65B (11)**

- Definition of 'approved Vocational education Training' is being amended to include the courses run by an industrial training institute or an industrial training centre affiliated to State Council for Vocational Training' ( SCVT) is being inserted in (i) and secondly entry at s.n. (iii) is being ommited, National Skill Development Corporation (NSDC) are being excluded from the scope of the definition.

### **\_II) Exemption to process of manufacture- Section 65B(40)**

- The definition of "process amounting to manufacture or production" is being expanded to include processes under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.

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## III) New Section – Section 66BA

To give legislative effect to the explanation contained in Removal of Difficulty Order 2012, new section has been introduced to provide that any reference to Section 66 (Charging Section in positive List) in this Act or any other act will be construed as reference to Section 66B (charging section in negative list). It has also been provided that negative list based taxation has deemed to have come into effect w.e.f. 01.07.2012.

## IV) Seed Testing-Section 66D (d)(i)

The word “seed” shall be omitted. This will be the benefit to all other testings in relation to “agriculture” or “agricultural produce.”



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## VI) Section 73(2A)- Issue of SCN

After subsection (2), subsection (2A) shall be inserted. As a result , if a show cause notice issued under proviso to sub-section (1) of section 73, is not found sustainable by an appellate authority or tribunal or court, the same will be deemed to be a notice issued for a period of 18 months.

## VII) Changes in provisions related Penalty: Section 77(1)(a)

Penalty for non-registration is being restricted to Rs. 10,000. Currently quantum of penalty may extend to higher of:-

- ☐ Rs. 10000
- ☐ Rs. 200 per day of failure.

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## VIII) Penalty on Directors , officers etc. (Section 78A)

Provision for penalty on director, manager, secretary or other officer of the company, up to a maximum of Rs. 1 Lac, has been introduced for any of the following contraventions.

- ☐ Evasion of service tax,
- ☐ Issuance of invoice without provision of service,
- ☐ Availment of CENVAT credit without receipt of services or goods, or
- ☐ Service tax collected remaining overdue for more than 6 months

## IX) Filling of appeal or cross objections after expiry period

A suitable amendment is being made under Section 86(5) to provide that appeal or Cross objections filed by Assessee beyond expiry period may be admitted by CESTAT.



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## IX) Offences & Penalties- Section 89, 90 & 91

- New provisions are being introduced to prescribe revised punishments for offences in section 89.
  - i] In case of an offences specified in a,b,c, of subsection (1) and where amount exceed Rs.50 lacs – punishment may be for 3 years but shall not be in any case less than 6 months.
  - ii] where tax collected and not deposited to the credit of central Govt. if amount exceed Rs. 50 lacs – Punishment shall be up to 7 years but not less than 6 month.
  - iii] in case of any offences : Punishment shall be extended for one year.
- Section 90 is being introduced to make certain offences cognizable which are not bailable and others non-cognizable and bailable.
- Section 91 is being introduced to empower Commissioner of Central Excise to authorize Central Excise Officer (not below the rank of Superintendent) to arrest a person for specified offences.

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## VII) Retrospective Exemption to Indian Railways

Retrospective exemption is being extended to the Indian Railways under the proposed Section 99 on the service tax leviable on various taxable services provided by them during the period prior to 01.07.2012 to the extent show cause notices have been issued up to the 28.02.2013.



**B. CHANGES IN MEGA EXEMPTION  
NOTIFICATION NO. 25/ 2012  
( APPLICABLE W.E.F 01.04.2013)**

| Notification No. | Amendment Notification                                         | Effective from |
|------------------|----------------------------------------------------------------|----------------|
| 2/2013 ST        | Amendment notification<br>no.26/2012- Abatement Real<br>Estate | 01.03.2013     |
| 3/2013 ST        | Notification No. 25/2012<br>[ Amended Notification]            | 01.04.2013     |
| 4/2013 ST        | Definition of resident Public<br>Company                       | 01.03.2013     |

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## I) Service provided by Educational Institution

- Exemption available under Sr. No. 9 in respect of services provided to and by specified Educational Institution by way of following has been changed to service provided to ~~or by~~
  - ☐ Auxiliary Educational Services
  - ☐ Renting of Immovable Property.
- Now the above services are exempt only when provided by any person to educational institutes or EI to EI.

## II) Temporary transfer of Cinematograph films restricted to Theatres

- At present Sr. No. 15 exempts exhibition of all types of cinematograph films. Now the same has been restricted to exhibition in a cinema hall or cinema theatre. Hence, any other mode of exhibition such as TV/DTH shall be subject to service tax.



# HIGHLIGHT OF CHANGES IN SERVICE TAX

## III) Service Tax net on All Air Conditioned Restaurant:

Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having (i) the facility of air-conditioning or central air heating in any part of the establishment, at any time during the year, ~~and (ii) a licence to~~

~~serve alcoholic beverages~~; [ Serial No. 19 ]

All restaurants which are air conditioned at any time during the year are under service tax net.

## IV) Exemption withdrawal on transport of certain goods by rail or vessel:

- [Serial No. 20]

The Government has withdrawn exemption on transportation of following goods by rail or vessel:

- ☐ Specified Petroleum & Petroleum products
- ☐ Postal mail or mail bags
- ☐ Household effects

Now all other will remain as exempt.

## V) Exemption to additional items in respect of GTA service: [Serial NO. 21]

Scope of exemption at Sr. No. 21 in respect of transport of goods by road has been expanded to include transportation of the following:

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- a] Agriculture Produce
- (d) relief materials meant for victims of natural or man-made disasters,
  - calamities, accidents or mishap;
- (e) defence or military equipments;
- (f) newspaper or magazines
- (g) foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt
  - and edible oil, excluding alcoholic beverages; or
- (h) chemical fertilizer and oilcakes;
- ~~fruits, vegetables, eggs, milk, food grains or pulses in a goods carriage;~~



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## **V) All Parking at Public Place under Service Tax:**

Exemption for vehicle parking to general public is now being withdrawn so that all type of parking facility granting whether by way of reserved (i.e. leasing of space to an entity for providing such parking facility) or unreserved (i.e. General Parking) parking will be liable to service tax.

## **VI) Aircraft Repair or Maintenance to Government or local authority:**

Exemption for services provided to Government, a local authority or a governmental authority, by way of repair or maintenance of aircraft is being withdrawn.

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## VII) Advancement of any other object of general public utility:

The definition of “charitable activities” is being changed by deleting the portion listed in sub-clause (v) of clause (k). Thus the benefit to charities providing services for advancement of “any other object of general public utility” up to Rs 25 Lakh will not be available. However the threshold exemption will continue to be available up to Rs 10 lakh.



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## C. Abatements to Developers of complex , building or civil construction ( w.e.f 1.03.13)

Abatement available to developers of complex, building or civil structure is being reduced from the existing 75% to 70% in following cases:-

| <u>Particulars</u>                                                                                                        | <u>Revised rates of Abatement</u> |
|---------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| For residential unit having carpet area up to 2000 square feet or where the amount charged is less than rupees one crore. | 75%                               |
| In any other case                                                                                                         | 70%                               |

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- Thus, if both of below conditions are fulfilled, service tax shall be levied at 3.708% (30% of 12.36%), otherwise at 3.09%.

- ☐ Carpet Area up to 2000 square feet or

- ☐ Amount charged > Rs. 1 crores

- This amendment shall apply w.e.f. 01.03.2013.

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## D. AMNESTY SCHEME FOR NON FILERS AND STOP FILERS:

- To encourage voluntary compliance and broaden the tax base, it is proposed to provide one time amnesty by way of
  - ❑ waiver of interest and penalty
  - ❑ immunity from prosecution, to the stop filers, non-filers or non-registrants or service providers.
- The defaulter will be required to make a truthful declaration of all his pending tax dues (from 01.10.2007 to 31.12.2012) and pay at least half of that before 31.12.2013; remaining half to be paid by:
  - ❑ 30.06.2014 without interest; or
  - ❑ By 31.12.2014 with interest from 01.07.2014 onwards;
- The scheme will be operational from the date on which the Finance Bill, 2013 receives the assent of the President.

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## VI) Advance ruling( on enactment of Finance Bill, 2013)

- The benefit of Advance Ruling Authority is being extended to resident public limited companies.
- A notification is being issued to this purpose under section 96A(b)(iii) of the Finance Act, 1994.





# THANK YOU

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