Union Budget 2015
Service Tax Proposals

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Key Takeaways

- Service tax rate increased from existing 12% (effective 12.36% including cess) to 14% subsuming the cesses. [w.e.f. date to be notified]
- Standard Excise duty rate increased from existing 12.36% (including cess) to 12.5% subsuming the cesses. [w.e.f. 1st March, 2015]
- Education Cess and Secondary & Higher Education Cess on Excise duty and Service Tax exempted in the new rate of duty.
- No change in median rate of Basic Customs duty, which remain unchanged at 10%.
- India is expected to move to the GST regime from 1st April, 2016.
- Enabling provision for levy of 'Swachh Bharat Cess'@ 2% on all or any taxable service(s). [w.e.f. date to be notified]
- Swift Registration process and digitization of records.

Legislative Changes

Amendment in definition of 'Service' (Sec-65B):

- An Explanation is being inserted in the definition of "Service" to clarify inclusion of services provided by chit foremen and agents of lottery tickets.

Scope of 'Consideration' widened:

- Explanation to section-67 (Valuation of Taxable Services) has been amended to include all reimbursable expenditure or cost incurred and charged by the service provider for the purpose of value of taxable service. This amendment nullifies the impact of Intercontinental Consultants and Technocrats (P) Ltd. vs Union of India & ANR (2012-TIOL-966-HC-DEL-ST).

Advance Rulings:

- The facility of advance ruling is now extended to all resident firms as defined.

Changes in Negative List (Sec-66D)

Services provided by Government or Local Authority [clause-a]

- All services provided by the Government or a local authority to a business entity, except the services that are specifically exempted, or covered by any another entry in the Negative List, shall be liable to service tax.

Process amounting to manufacture or production of goods [clause-f]

- Proposed to exclude any service by way of carrying out any processes for production or manufacture of alcoholic liquor for human consumption. Accordingly, Service Tax shall be levied on such services.

Admission to entertainment event & Access to amusement facility [clause-j]

- Entry pertaining to ‘Admission to entertainment event’ and ‘Access to amusement facility’ proposed to be omitted and henceforth service tax be charged on these services.
- Service tax to be levied on service by way of admission to specified entertainment event if the amount charged is more than Rs.500 for right to admission to such an event.

Penal Provisions

Sec-76 : In cases not involving fraud, collusion or willful mis-statement etc.	Sec-78 : In cases involving fraud or collusion or willful mis-statement etc.
Maximum Penalty capped at 10% of the Service Tax amount involved.	Penalty shall be 100% of the Service Tax amount involved.
No penalty if Service Tax & Interest paid within 30 days from date of issuance of SCN.	Reduced penalty of 15% of Service Tax, if Service Tax, Interest & reduced Penalty is paid within 30 days from the date of service of SCN.
Reduced penalty of 25% of penalty imposed in the order, if Service Tax, Interest & reduced Penalty paid within 30 days from the date of receipt of order.	Reduced penalty of 25% of Service Tax determined in the order, if Service Tax, Interest & reduced Penalty paid within 30 days from the date of receipt of order.
If the Service Tax amount gets reduced in any appellate proceeding, then the Penalty shall also be modified accordingly. Further, the benefit of reduced penalty @ 25% shall be payable if Service Tax, Interest and reduced Penalty is paid within 30 days of such appellate order.	

Penal Provisions…

Transitional penalty provision [Sec-78 B]

- Amended provisions of sections 76 & 78 shall apply to cases where either no notice is served or notice is served but no order has been issued before the date of enactment of the Finance Bill, 2015.
- In respect of cases covered by sub-section (4A) of section 73, if no notice is served or notice is served but no order has been issued before the date of enactment of the Finance Bill, 2015, penalty shall not exceed 50% of the Service Tax amount.

Waiver of penalty [Sec-80]

- This section has been deleted, which was providing relief for non-imposition of penalty in case of reasonable cause for failure to pay tax.

Review of General Exemptions

- Exemption presently available on specified services of construction, repair of civil structures, etc. when provided to the Government shall be restricted only to:
  a) a historical monument, archaeological site
  b) canal, dam or other irrigation work;
  c) pipeline, conduit or plant for water supply, water treatment, or sewerage treatment or disposal.

- Exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port is being withdrawn.

- Exemption to services provided by a performing artist in folk or classical art form will be limited only to such cases where amount charged is up to Rs.1,00,000/- for a performance. (except as a brand ambassador)

- Transportation of Foodstuff i.e. tea, coffee, jaggery, sugar, milk products, edible oil are now taxable.

Review of General Exemptions…

- Exemptions are being withdrawn on (a) services provided by a mutual fund agent to a mutual fund or assets management company, (b) distributor to a mutual fund or AMC, (c) selling or marketing agent of lottery ticket to a distributor. Service Tax on these services shall be levied under Reverse charge mechanism.

- Intermediate production process of alcoholic liquor for human consumption on job work basis is now liable to service tax. *(w.e.f. the date of enactment of the Finance Bill, 2015)*

- The service provided by a commission agent located outside India to an exporter located in India is being rescinded. This exemption has become redundant after amendment made in Place of Provision of Service Rules in previous budget. *(w.e.f. 1st March, 2015)*

Note : Exemptions related changes are effective from 1st April, 2015 (unless otherwise specified)

New Exemptions

- All ambulance services.
- Life insurance service provided by way of Varishtha Pension Bima Yojna.
- Service provided by a Common Effluent Treatment Plant operator for treatment of effluent.
- Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables.
- Service provided by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve.
- Service provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or an association of persons consisting of such exhibitor as one of it's members.
- GTA services when provided for transport of export goods by road from the place of removal to a land customs station.

(Above exemptions are effective from 1st April, 2015)

Abatements

Nature of Service	Existing Provision		Proposed Provision	
	Abatement	Taxable Portion	Abatement	Taxable Portion
Goods transport by road by a goods transport agency	75%	25%	70%	30%
Goods transport by Rail	70%	30%	70%	30%
Goods transport by vessels	60%	40%	70%	30%
Air transport of passenger other than in economy class	60%	40%	40%	60%
Service provided in relation to chit	30%	70%	NIL	100%

Above changes shall come into effect from 1st April, 2015

Reverse Charge Mechanism

- Manpower supply or Security services when provided by an individual, HUF, or partnership firm to a body corporate are being brought to full reverse charge from existing partial reverse charge.

- Services provided by, (i) mutual fund agents, mutual fund distributors; and (ii) agents of lottery distributor are being brought under reverse charge.

(Above exemptions are effective from 1st April, 2015)

CENVAT Credit Rules, 2004

- The period for taking CENVAT Credit is being extended from six months from the date of invoice to one year from the date of invoice.

- Rule 4(7) is being amended to allow CENVAT Credit of Service Tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider.

(Above exemptions are effective from 1st April, 2015)

Others

- Provision for issue of digitally signed invoices and preservation of records in electronic form by a manufacturer.

- Registration process under Central Excise and Service tax has been simplified. Registration to be granted within two working days of the receipt of a duly completed online application form. Further, Verification of documents and premises, as the case may be, shall be carried out post facto.

- Central Excise / Service Tax assessee to be allowed to use digitally signed invoices and maintain record electronically.

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