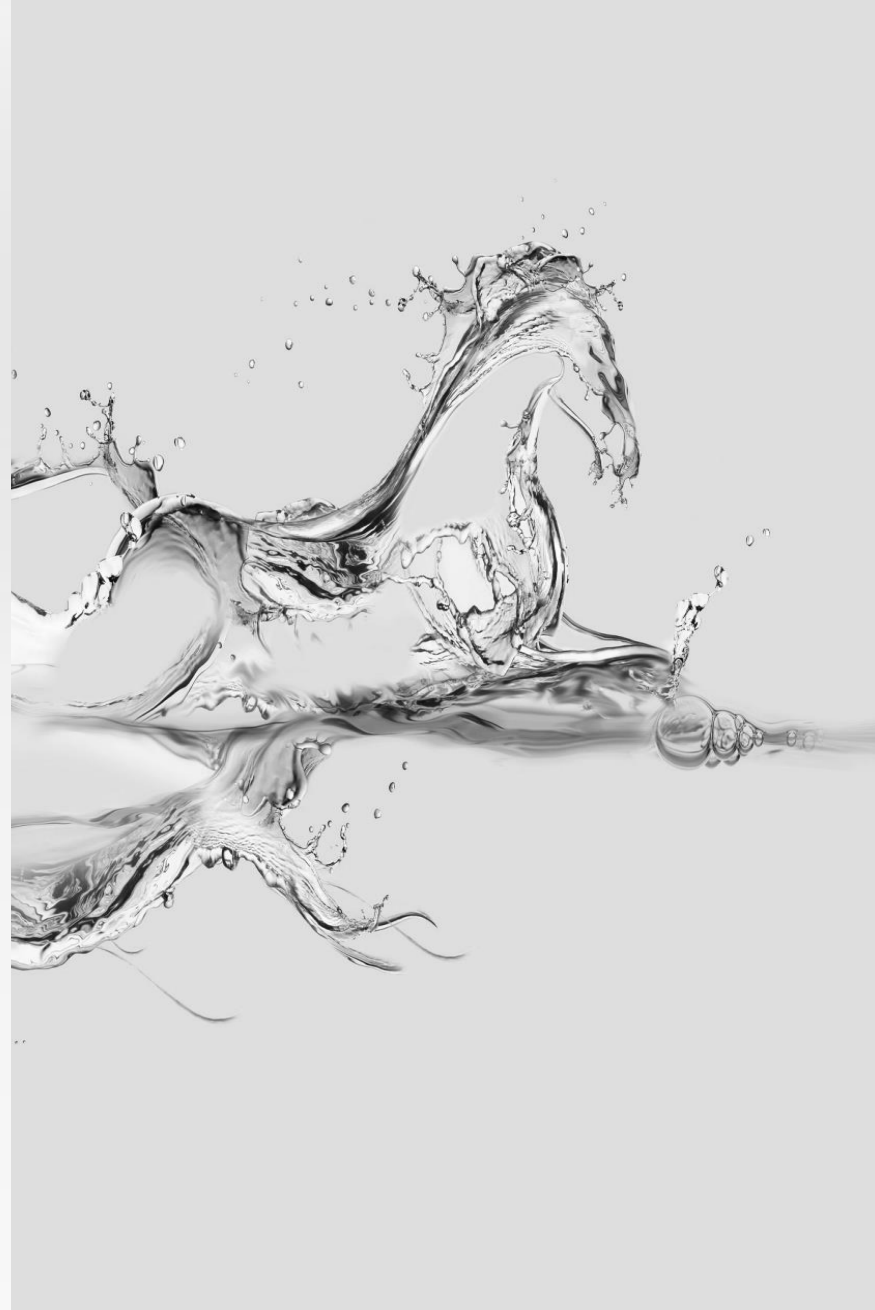


# Budget 2016

## Indirect Tax Proposals

**HEADS UP**



# Service Tax

# Levy of Krishi Kalyan Cess

- › Finance Bill 2016 has proposed a levy of Krishi Kalyan Cess ('Krishi Cess') at 0.5 % on the value of all taxable services w.e.f. 1 June 2016. Thus, effective rate of service tax will be 15%
- › Cenvat Credit of Krishi Cess paid on Input Services shall be allowed for the payment of this Cess. Although, Finance Minister has mentioned the creditability of Krishi Cess in his budget speech, however corresponding notification has not been issued so far

# Services Brought Under Tax Net

Finance Bill 2016 has proposed to exclude certain services from the Negative List to bring them under the levy of service tax, namely:

- › Services of transportation of passengers by a stage carriage. An abatement of 60% without Cenvat facility shall be available in respect of such services. However, such services by non air-conditioned contract carriage is exempted under Mega Exemption
- › 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. However, such services by an aircraft is exempted under Mega Exemption

Finance Bill 2016 has proposed to declare assignment by the Government of right to use the radio frequency spectrum and transfers thereof as Service under Section 66E of the Finance Act, 1994. This is more in the nature of clarification to make it clear that the same is not liable to VAT

The above budgetary proposals shall be effective from the date of assent of the President

# SCN's and Interest

- › The normal period of limitation for issuing show cause notice i.e. in cases not involving any suppression of facts, fraud etc. is proposed to be increased from 18 months to 30 months. The 5 year limitation in case of fraud etc. will remain unchanged
- › Rate of interest on delay in payment of service tax has been changed as follows in order to rationalize the same:

Situation	Rate of Simple Interest
The person who has collected the amount of service tax but not deposited to the Government on or before due date	24%*
Other Cases	15%*

\* Interest rate shall be reduced by 3% in case of assessee having taxable turnover less than INR 60 lakhs

- › The monetary limit for filing complaints for punishable offences is proposed to be enhanced from INR 50 lakhs to INR 200 lakhs

The above budgetary proposals shall be effective from the date of accent of the President

- › Notification Number 41/2012 ST was amended vide Notification No 1/2016 to extend refund of service tax on services used beyond the factory or any other premise of production to the place of removal. The said benefit has been now allowed retrospectively from 1 July 2012
- › Services by way of construction, erection, maintenance, or alteration etc of canal, dam or other irrigation works provided to **entities set up by Government but not necessarily by an Act of Parliament or State Legislature** are exempted for the period from 1 July 2012 to 29 January 2014. Prior to 29 January 2014 the exemption was available to such services provided only to **entities set up by Government by an Act of Parliament or State Legislature**
- › Exemption has been extended to certain services of in respect of which exemption was withdrawn last year (wef 1 April 2015), namely:
  - Services provided to the Government, local authority or a Governmental authority by way of construction, erection etc. of
    - a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
    - a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;
    - a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65B of the said Act;

# Retrospective Exemptions

[2/2]

- Services by way of construction, erection, etc. of original works pertaining to an airport, port
- The exemption is proposed to be restored in respect of the contracts entered into prior to 1 March 2015 on which appropriate stamp duty has been paid

# Exemptions Withdrawn

- › Services provided by a senior advocate to an advocate or partnership firm of advocates
- › Services of a person represented on an arbitral tribunal to an arbitral tribunal
- › Services of transportation of passengers, with or without accompanied belongings, by ropeway, cable car or aerial tramway
- › Services of construction, erection, commissioning or installation of original works pertaining to monorail or metro

The above amendments shall be effective from 1 April 2016



# New Exemptions [Effective 1 March 2016]

[1/3]

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

## New Exemptions [Effective 1 April 2016]

[2/3]

- › The services of life insurance business provided by way of annuity under the National Pension System regulated by Pension Fund Regulatory and Development Authority (PFRDA) of India
- › Services provided by Employees Provident Fund Organisation to persons governed under the Employees Provident Funds and Miscellaneous Provisions Act, 1952
- › Services provided by Insurance Regulatory and Development Authority of India (IRDAI) to insurers under the Insurance Regulatory and Development Authority of India Act, 1999
- › Services provided by Securities and Exchange Board of India (SEBI) set up under the SEBI Act, 1992 by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market
- › Services provided by National Centre for Cold Chain Development under Ministry of Agriculture, Cooperation and Farmer"s Welfare by way of cold chain knowledge dissemination.
- › Services provided by Biotechnology Industry Research Assistance Council approved biotechnology incubators to the incubates
- › 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

# New Exemptions [Effective 1 April 2016]

[3/3]

- › Services provided by a performing artist in folk or classical art forms of music, dance or theatre, is being increased from INR 1 lakh to INR 1.5 lakh per performance
- › Services provided by way of skill/ vocational training by Deen Dayal Upadhyay Grameen Kaushalya Yojana training partners
- › Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship

- › 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. 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%
- › 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% subject to the condition that Cenvat credit of inputs, input services and capital goods has not been availed
- › At present, two rates of abatement have been prescribed for services of construction of complex, building, civil structure, or a part thereof by a developer ie 25% and 30%. 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
- › At present, service tax is leviable on 30% of the amount charged for the service of transport of passengers by rail, without cenvat credit of inputs, input services and capital goods. It is proposed to continue with the same level of abatement with cenvat credit of input services for the said service

- › Currently service tax is payable on 30% of the value of service of transport of goods by rail without cenvat credit on inputs, input services and capital goods. It is now proposed to continue with the same level of abatement with cenvat credit of input services for transport of goods by rail (other than “transport of goods in containers by rail by any person other than Indian Railway”). 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
- › Currently service tax is leviable on 30% of the value of service of transport of goods by vessel without cenvat credit on inputs, input services and capital goods. It is now proposed to continue with the same level of abatement with cenvat credit of input services for the said service
- › 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)

The above amendments shall be effective from 1 April 2016

# Others

## **Reverse Charge (effective from 1 April 2016)**

- › The liability to pay service tax on any services provided by Government or a local authority to business entities shall be on the service recipient
- › Services provided by a senior advocate shall be on forward charge instead of reverse charge as per the earlier provisions

## **Returns**

- › Service Tax assessee shall also be required to file an annual return. This change shall be effective from 1 April 2016

## **Indirect Tax Dispute Resolution Scheme**

- › A scheme has been introduced wherein in respect of the cases pending before the Commissioner (Appeals), the assessee, after paying duty, interest and penalty equivalent to 25% of duty, can file a declaration. In such cases the proceedings against the assessee will be closed and he will also get immunity from prosecution. The scheme shall come into force after the assent of the President. The scheme shall come into effect from 1 June 2016

# Others

## **Refund of Cenvat Credit (effective from 1 March 2016)**

- › Notification No 27/2012 CE (NT) is being amended to provide that the relevant date for computing the time limit of one year for filing the refund claim under Rule 5 of the Cenvat Credit Rules, 2004 shall be the date of:
  - Receipt of payment in convertible foreign exchange, where provision of service has been completed prior to receipt of such payment; or
  - Issue of invoice, where payment for service has been received in advance prior to the date of issue of the invoice

# Central Excise



## Central Excise - New levy

- › Excise duty of 2% (Without CENVAT credit ) or 12.50% ( with CENVAT credit ) is being levied on readymade garments and made up articles of textiles falling under Chapters 61,62 and 63 excepts those falling under chapter under 6309 and 6310 of retail sale price (RSP) of INR 1000 and above when sold under brand name. However, in respect of readymade garments and made up articles of textiles other than those mentioned above, the optional levy of 'Nil (Without CENVAT credit ) or 6% (with CENVAT credit)' in case of garments/articles of other composition, as the case may be, shall continue. The tariff value for the readymade garments and made up articles is also proposed to be increased from 30% to 60%
- › 1% excise duty without CENVAT facility and 12.5 % with CENVAT facility is being introduced on specified category of articles of Jewellery with a threshold exemption turnover of INR 6 Crore. To be eligible for this threshold exemption, the previous year turnover should be less than INR 12 Crore
- › Infrastructure Cess @ 1% to 4% is proposed to be levied on motor vehicles falling under Central Excise Tariff Heading 8703 of the First Schedule to the Central Excise Tariff Act, 1985

The above amendments are effective from 1 March 2016

## Change in Rates - Key Products

Item/ Products	Increase/ Decrease	Existing Rate	New Rate
Pan masala	↑	16%	19%
Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavored	↑	18%	21%
Oil Industries Development Cess levied on domestically produced crude oil under the Oil Industry (Development) Act, 1974	↓	INR4500 PMT	20% ad voralem
Aviation turbine fuel	↑	8%	14%
Clean Energy Cess levied on coal, lignite and peat	↑	INR300 per tonne	INR400 per tonne
Cigar ,Cheroots and Cigarillos	↑	12.5% or INR3375 per thousand, whichever is higher	12.5% or INR3755 per thousand, whichever is higher

## Change in Rates - Key Products

Item/ Products	Increase/ Decrease	Existing Rate	New Rate
Gutkha, chewing tobacco (including filter khaini) and Zarda scented tobacco	↑	70%	81%
Paper rolled biris (whether handmade or machine made) and other biris (other than handmade biris) However, the effective rate of basic excise duty of INR21 per thousand shall remain unchanged.	↑	INR30 per thousand	INR80 per thousand
Micronutrients	↓	12.5%	6%
Rubber sheets & Resin rubber sheets for Soles and Heels	↓	12.5%	6%
PSF / PFY Manufactured from Plastic scrap or Plastic waste including Waste PET bottles	↑	2% without CENVAT credit or 6% with CENVAT credit"	2% without CENVAT credit or 12.5% with CENVAT credit

The above amendments will come into effect from 1 March 2016

# Dispute Resolution Scheme

- › All the appeals pending before Commissioner (Appeals) as on 1 March 2016 under Central Excise Act are eligible under the scheme. However, if the impugned order is in respect of search and seizure proceeding or narcotic drug or in respect of an offence punishable under IPC, NDPS Act, Prevention of corruption Act or pertains to an issue in which prosecution has been instituted prior to 01 June 2016 or detention has been passed under COFEPOSA, the cases cannot be settled under the scheme
- › The cases of eligible assesseees can be concluded by paying disputed tax along with interest and penalty equal to 25% of the penalty imposed under the impugned order. The eligible assesseees are required to make declaration for settlement after 1 June 2016

# Others

- › The normal period of limitation for issuing Show Cause Notices ie in cases not involving any suppression of facts, fraud etc. is proposed to be increased from 1 Year to 2 Years The 5 year limitation in case of fraud etc. will remain unchanged

The above provision shall come in effect from the date of enactment of Finance Bill 2016

- › Rate of interest on delay in payment of service tax has been changed to 15 percent from existing 18 percent
- › Central Excise Rules are amended to provide for one annual return besides other prescribed returns. All returns to be filed electronically
- › In alignment with the provision of revising the return provided under service tax legislation a provision has been introduced by which filed returns can be revised within the calendar month in which the original return is filed

The above amendments are effective from 1 April 2016

- › 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
- › All capital goods having value up to INR ten thousand per piece are being included in the definition of inputs. This would allow an assessee to take whole credit on such capital goods in the same year in which they are received and also ease the disposal of capital goods such as tools having short life span
- › 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
- › Rule 6 of Cenvat Credit Rules, which provides for reversal of credit in respect of inputs and input services used in manufacture of exempted goods or for provision of exempted services, is being amended with the objective of simplifying and rationalizing the same without altering the established principles of reversal of such credit

- › Rule 6(3) is being amended to provide that when a manufacturer manufactures both dutiable goods and exempted goods or when a provider of output services provides both taxable and exempted services, then the manufacturer or the provider of the output service shall exercise one of the two options, namely, (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)
- › Rule 6(3A) is being amended to 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. The four key steps for calculating the credit required to be paid are :-
  - No credit of inputs or input services used exclusively in manufacture of exempted goods or for provision of exempted services shall be available;
  - Full credit of input or input services used exclusively in final products excluding exempted goods or output services excluding exempted services shall be available;
  - Credit left thereafter is common credit and shall be attributed towards exempted goods and exempted services by multiplying the common credit with the ratio of value of exempted goods manufactured or exempted services provided to the total turnover of exempted and non-exempted goods and exempted and non-exempted services in the previous financial year;

- Final reconciliation and adjustments are provided for after close of financial year by 30 June of the succeeding financial year
- › Rule 7 dealing with distribution of credit on input services by an Input Service Distributor (ISD) is being amended to allow an ISD to distribute the input service credit to an outsourced manufacturing unit also in addition to its own manufacturing units. Outsourced manufacturing unit is defined to mean either a job-worker who is required to pay duty on the value determined under the provisions of rule 10A of the Valuation Rules or a manufacturer who manufactures goods, for the ISD under a contract, bearing the brand name of the ISD and is required to pay duty on value determined under the provisions of section 4A of the Central Excise Act, 1944

The above amendments are effective from 1 April 2016



# Customs

# Key Legislative Amendments

[1/2]

- › Time limit of issuance of Show Cause Notice for recovery of duties not levied or not paid or short levied or short paid or erroneously refunded other than the reasons of collusion or willful misstatement has been increased from one year to two years
- › Certain class of importers/Exporters shall be permitted to make deferred payment of Duty in case of clearance of goods for home consumption/ Export subject to the notifications issued by Central government in this behalf
- › Exporter will be liable for payment of interest in case of failure to make payment of Export Duty in time
- › Warehousing provisions has been completely revamped as under:
  - Principal Commissioner or Commissioner of Customs has been empowered to license the warehouse instead Assistant Commissioner / Deputy Commissioner of Customs.
  - A provision for Licensing of special warehouses has been provided
  - For warehousing of imported goods, the Importers shall have to execute a bond in a sum equal to thrice the amount of duty assessed on such goods (earlier it was equal to the twice of duty assessed). In addition to execution of bond the importer shall also require to furnish security as prescribed

# Key Legislative Amendments

[2/2]

- Physical control of department over warehoused goods have been soothed. Except special Warehouses enabling storage of specified goods (shall be under physical control of department), all other type of warehouses would be on record based control
- New section 73A is being inserted so as to provide for custody of warehoused goods and responsibilities including the liabilities of warehouse keepers

The above amendments are effective from the date of enactment of the Finance Bill 2016

# Baggage's Rules 2016

- › Baggage Rules, 1996 has been replaced with Baggage Rules, 2016 to simplify and rationalize the Rules. Key changes in Rules are:
  - Limit of Custom Duty Free Allowances has been increased to 50,000 from 35,000, where the Origin Country is other than Nepal, Bhutan, & Myanmar.
  - Duty free clearance of *bona fide* baggage of Gold Jewelry up to a weight of 20 grams with a value cap of INR 50,000 if brought by gentleman passenger, or 40 grams with a value cap of INR1,00,000 if brought by lady passenger.

The above amendments are effective from 1 April 2016

# Dispute Resolution Scheme

- › All the appeals pending before Commissioner (Appeals) as on 1 March 2016 under Customs Act are eligible under the scheme. However, if the impugned order is in respect of search and seizure proceeding or narcotic drug or in respect of an offence punishable under IPC, NDPS Act, Prevention of corruption Act or pertains to an issue in which prosecution has been instituted prior to 1 June 2016 or detention has been passed under COFEPOSA, the cases cannot be settled under the scheme
- › The cases of eligible assesseees can be concluded by paying disputed duty along with interest and penalty equal to 25% of the penalty imposed under the impugned order. The eligible assesseees are required to make declaration for settlement after 1 June 2016

## Other Changes

- › Rate of interest in case of late/ delay in payment of Duty has been reduced from 18% to 15%
- › Filing of Customs declaration only for those passengers who carries dutiable or prohibited goods
- › Limit of bonafide Gifts imports through Post have been increased from INR 10,000 to INR 20,000
- › The existing Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 are being substituted with the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 with a view to simplify the rules, including allowing duty exemptions to importer/manufacture based on self-declaration instead of obtaining permissions from the Central Excise authorities. Need for additional registration is also being done away with. The new Rules will be effective from 1 April 2016

*The above amendments are effective from 1 April 2016*



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**Heads-up:** hedzʌp / hedz-uhp / [Business English];

*.n.* a short statement giving information on how a situation is developing; a piece of advice about something so that you are prepared for it.

*.adj.* alert; perceptive; resourceful; quick to grasp a situation.