

# India

## Union Budget 2015-16

### An Insight

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## **POLICY ANNOUNCEMENTS**

## **Vision for 2022**

➤ The year 2022 will be the Amrut Mahotsav, the 75th year, of India's independence. The vision of what the Prime Minister has called 'Team India', led by the States and guided by the Central Government, to include:

- i. A roof for each family in India. The call given for 'Housing for all' by 2022 would require Team India to complete 20 Million houses in urban areas and 40 Million houses in rural areas.
- ii. Each house in the country to have basic facilities of 24-hour power supply, clean drinking water, a toilet, and be connected to a road.
- iii. At least one member from each family to have access to the means for livelihood and, employment or economic opportunity, to improve his or her life.

- iv. Substantial reduction of poverty. Government schemes to focus on and around the poor.
- v. Electrification, by 2020, of the remaining 20,000 villages in the country, including by off-grid solar power generation.
- vi. Connecting each of the 1,78,000 unconnected habitations by all weather roads. This will require completing 1,00,000 kilometer of roads currently under construction plus sanctioning and building another 1,00,000 kilometer of roads.
- vii. Providing medical services in each village and city.
- viii. To ensure that there is a senior secondary school within 5 km reach of each child, to upgrade over 80,000 secondary schools and add or upgrade 75,000 junior/middle, to the senior secondary level.
- ix. Increasing the irrigated area, improving the efficiency of existing irrigation systems, promoting agro-

based industry for value addition and increasing farm incomes, and reasonable prices for farm produce.

- x. Ensure communication connectivity to all villages without it.
- xi. To make India the manufacturing hub of the world. The Skill India and the Make in India programmes to ensure the same.
- xii. To encourage and grow the spirit of entrepreneurship in India and support new start-ups.
- xiii. Focus on development in the Eastern and North Eastern regions of country.

### **Agriculture**

- Proposal to introduce 'Pradhan Mantri Gram Sinchai Yojana', which is aimed at irrigating the field of every farmer and improving water use efficiency to provide 'Per Drop More Crop'. INR 53 Billion has been allocated to support micro-irrigation, watershed development and the 'Pradhan Mantri Krishi Sinchai Yojana'.
- To support the agriculture sector with the help of effective and hassle-free

agriculture credit, with a special focus on small and marginal farmers, INR 250 Billion has been allocated in 2015-16 to the corpus of Rural Infrastructure Development Fund ("RIDF") set up in National Bank for Agriculture and Rural Development ("NABARD"); 150 Billion for Long Term Rural Credit Fund; 450 Billion for Short Term Cooperative Rural Credit Refinance Fund; and 150 Billion for Short Term RRB Refinance Fund.

- Proposal to create a Unified National Agriculture Market for the benefit farmers, which will also have the incidental benefit of moderating price rises. Government to work with the States for the creation of a Unified National Agriculture Market.

### **Lending**

- Micro Units Development Refinance Agency ("MUDRA") Bank, with a corpus of INR 200 Billion, and credit guarantee corpus of INR 30 Billion crores to be created.
- In lending, priority will be given to Schedule Cast ("SC")/Schedule Tribes ("ST") enterprises.

- MUDRA Bank will be responsible for refinancing all Micro-finance Institutions which are in the business of lending to such small entities of business through a Pradhan Mantri Mudra Yojana.
- A Trade Receivables discounting System (“TReDS”) which will be an electronic platform for facilitating financing of trade receivables of Micros Small and Medium Enterprises (“MSMEs”) to be established.
- A Comprehensive Bankruptcy Code of global standards to be brought in fiscal 2015-16 towards ease of doing business.
- Postal network with 154,000 points of presence spread across villages to be used for increasing access of the people to the formal financial system.
- Non-Banking Finance Companies (“NBFCs”) registered with Reserve Bank of India (“RBI”) and having asset size of INR 5 Billion and above may be considered for notifications as ‘Financial Institution’ in terms of the Securitisation and Reconstruction of Financial Assets

and Enforcement of Security Interest Act, 2002 (“SARFAESI Act”).

### **Insurance**

- ‘Pradhan Mantri Suraksha Bima Yojna’ to be launched to cover accidental death risk of INR 0.2 Million for a premium of just INR 12 per year.
- ‘Atal Pension Yojana’ to be launched to provide a defined pension, depending on the contribution and the period of contribution. Government to contribute 50% of the beneficiaries’ premium limited to INR 1,000 each year, for five years, in the new accounts opened before 31st December 2015.
- ‘Pradhan Mantri Jeevan Jyoti Bima Yojana’ to be launched to cover both natural and accidental death risk of INR 0.2 Million at premium of INR 330 per year for the age group of 18-50.
- A new scheme for providing Physical Aids and Assisted Living Devices for senior citizens, living below the poverty line.

- Unclaimed deposits of about INR 30 Billion in the Public Provident Fund (“PPF”), and approximately INR 60 Billion in the Employee’s Provident Fund (“EPF”) corpus. These amounts to be appropriated to a corpus, which will be used to subsidize the premiums on these social security schemes through creation of a Senior Citizen Welfare Fund in the Finance Bill.

### **Infrastructure**

- Investment in infrastructure will go up by INR 700 Billion in the year 2015-16, over the year 2014-15
- National Investment and Infrastructure Fund (“NIIF”), is proposed to be established with an annual flow of INR 200 Billion to it.
- It is proposed to introduce ‘Tax free infrastructure bonds’ for the projects in the rail, road and irrigation sectors.
- Public Private Partnership (“PPP”) mode of infrastructure development to be revisited and revitalized.
- Atal Innovation Mission (“AIM”) is proposed to be established to provide Innovation Promotion Platform involving academicians, and drawing upon national and international experiences to foster a culture of innovation, research and development. A sum of INR 1.5 Billion is earmarked for the same.
- It is proposed to establish Self-Employment and Talent Utilization (“SETU”) as Techno-financial, incubation and facilitation programme to support all aspects of start-up business. INR 10 Billion has been earmarked for the same.
- Ports in public sector will be encouraged, to corporatize, and become companies under the Companies Act to attract investment and leverage the huge land resources.
- An expert committee to examine the possibility and prepare draft legislation where, the need for multiple prior permissions can be replaced by a pre-existing regulatory mechanism. This will facilitate India becoming an investment destination.

- It is proposed to establish 5 new Ultra Mega Power Projects, each of 4000 MW, in the Plug-and-Play model. The Government will also consider similar plug-and-play projects in other infrastructure projects such as roads, ports, rail lines, airports etc.
- Proposal to introduce a procurement law to contain malfeasance in public procurement.
- Proposal to introduce a Public Contracts (Resolution of Disputes) Bill to streamline the institutional arrangements for resolution of such disputes.
- Proposal to introduce a Regulatory Reform Bill that will bring about a cogency of approach across various sectors of infrastructure.
- 'Made in India' and the 'Buy and the make in India' policy are being carefully pursued to achieve greater self-sufficiency in the area of defence equipment including air-craft
- For the quick resolution of commercial disputes, the Government proposes to set

up exclusive commercial divisions in various courts in India based on the recommendations of the Law Commission.

### **Financial Markets**

- It is proposed to set up Public Debt Management Agency ("PDMA") for bringing both external and domestic borrowings under one roof.
- It is proposed to merge the Forwards Markets Commission ("FMC") with Securities Exchange Board of India ("SEBI") to strengthen regulation of commodity forward markets and reduce wild speculation. Enabling legislation, amending the Government Securities Act and the RBI Act is proposed in the Finance Bill, 2015
- Foreign Exchange Management Act, 1999 ("FEMA") to be amended to clearly provide that control on capital flows as equity will be exercised by the Government, in consultation with the RBI as it is a policy matter rather than a regulatory matter.



- There is a proposal to create a Task Force to establish sector-neutral financial redressal agency that will address grievance against all financial service providers.
- India Financial Code to be introduced soon in Parliament for consideration.
- Proposal is to put in place a direct tax regime, which is internationally competitive on rates, without exemptions.
- Government to introduce enabling legislation to allow employee to opt for EPF or New Pension Scheme. For employees below a certain threshold of monthly income, contribution to EPF to be optional without affecting employer's contribution.

### **Monetising Gold**

- Introduction of a 'Gold Monetisation Scheme', which will replace both the present Gold Deposit and Gold Metal Loan Schemes. The new scheme will allow the depositors of gold to earn interest in their metal accounts and the jewelers to obtain loans in their metal

account. Banks/other dealers would also be able to monetize this gold.

- There is also a proposal to develop an alternate financial asset, a Sovereign Gold Bond, as an alternative to purchasing metal gold. The Bonds will carry a fixed rate of interest, and also be redeemable in cash in terms of the face value of the gold, at the time of redemption by the holder of the Bond.
- There is also a proposal to develop an Indian Gold Coin, which will carry the Ashok Chakra on its face. Such an Indian Gold Coin would help reduce the demand for coins minted outside India and also help to recycle the gold available in the country.
- Government to incentivize credit or debit card transactions, and dis-incentivize cash transactions.

### **Investment**

- Foreign investments in 'Alternate Investment Funds' as regulated by SEBI to be allowed.

- Distinction between different types of foreign investments, especially between Foreign Portfolio Investments (“FPI”) and Foreign Direct Investments (“FDI”) to be done away with.
- It is proposed to set up a project development company to facilitate setting up manufacturing hubs in ‘CMLV’ countries, namely, Cambodia, Myanmar, Laos and Vietnam.
- Gujarat International Finance Tec-City (“GIFT”) in Gujarat was envisaged as International Finance Centre that would actually become as good an International Finance Centre as Singapore or Dubai, which, incidentally, are largely manned by Indians. Government has announced that the first phase of GIFT will soon become a reality. Appropriate regulations will be issued in March in this regard.

### **Women Safety**

- In order to support programmes for women security, advocacy and awareness, it has been proposed to provide INR 10 Billion to the Nirbhaya Fund created for the purpose.

### **Tourism**

- Resources to be provided to start work along landscape restoration, signage and interpretation centres, parking, access for the differently abled, visitors’ amenities, including securities and toilets, illumination and plans for benefiting communities around them at various heritage sites across country.
- Visas on arrival to be increased to 150 countries in stages from existing 43 countries now.

### **Renewable Energy**

- Government is launching a Scheme for Faster Adoption and Manufacturing of Electric Vehicles (“FAME”). An initial outlay of INR 750 Million has been proposed for this Scheme in 2015-16.
- Target of renewable energy capacity revised to 175000 MW till 2022, comprising 100000 MW Solar, 60000 MW Wind, 10000 MW Biomass and 5000 MW Small Hydro.

## **Skill India**

- Proposal to launch a National Skills Mission through the Skill Development and Entrepreneurship Ministry. The Mission will consolidate skill initiatives spread across several Ministries and allow government to standardize procedures and outcomes across 31 Sector Skill Councils.
- Proposal to launch ‘Deen Dayal Upadhyay Gramin Kaushal Yojana’ to enhance employability of rural youth. INR 1.5 Billion has been set apart for this scheme. Disbursement will be through a digital voucher directly into qualified student’s bank account.
- With a view to enable all poor and middle class students to pursue higher education of their choice without any constraint of funds, government has proposed to set up a fully IT based Student Financial Aid Authority to administer and monitor Scholarship as well Educational Loan Schemes, through the ‘Pradhan Mantri Vidya Lakshmi Karyakram’.
- It is proposed to set up All India Institute of Medical Sciences (“AIIMS”) in J&K, Punjab, Tamil Nadu, Himachal Pradesh, Assam and Bihar.
- It is proposed to set up an Indian Institute of Technology (“IIT”) in Karnataka, and upgrade Indian School of Mines, Dhanbad into a full-fledged IIT.
- It is also proposed to set up a Post Graduate Institute of Horticulture Research and Education in Amritsar.
- To set up Indian Institute of Management (“IIMs”) in J&K and Andhra Pradesh.
- In Kerala, it is proposed to upgrade the existing National Institute of Speech and Hearing to a University of Disability Studies and Rehabilitation.
- Three new National Institutes of Pharmaceutical Education and Research are proposed in Maharashtra, Rajasthan, and Chhattisgarh and an Institutes of Science and Education Research in Nagaland and Odisha.
- It is also proposed to set up a Centre for Film Production, Animation and Gaming in Arunachal Pradesh, for the North-

Eastern States; and Apprenticeship Training Institute for Women in Haryana and Uttrakhand.

- In order to improve the Governance of Public Sector banks, the Government intends to set up an autonomous bank Board Bureau. The Bureau will search and select heads of Public Sector banks and help them in developing differentiated strategies and capital raising plans through innovative financial methods and instruments. This would be an interim step towards establishing a holding and investment Company for Banks.

### **Digital India**

- The National Optical Fibre Network Program (“NOFNP”) of 0.75 Million kms. networking 0.25 Million villages is being

further speeded up by allowing willing States to undertake its execution, on reimbursement of cost as determined by Department of Telecommunications. Andhra Pradesh is the first State to have opted for this manner of implementation.

- Special assistance has been proposed to Bihar and West Bengal as has been provided by the Government of India in the case of Government of Andhra Pradesh. As regards Andhra Pradesh and Telengana, the Government is committed to comply with all the legal commitments made to these States at the time of reorganization.



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*Union Budget 2015-2016: An analysis*

# **FISCAL PROPOSALS**

## **DIRECT TAXES**

### **1.1. Personal Taxation**

#### **1.1.1. No changes in effective tax rates**

No change in the rates in case of individuals (including senior and super senior citizens), Hindu Undivided Family (HUF), co-operative societies, firms and Local Authorities. However, additional surcharge of 2% has been levied in case of person having total income exceeding INR 10 million.

#### **1.1.2. Tax relief and welfare measures**

- The limit of transport allowance exempt from tax under section 10(14) has been increased to INR 1600 per month from existing INR 800 per month.
- The limit of deduction on account of health insurance premium under Section 80D to individuals and HUF has been increased to INR 25,000 from existing INR 15,000 and similarly for senior citizens it has been increased to INR 30,000 from existing INR 20,000.
- Senior citizens above the age of 80 years, who are not covered by health insurance,

to be allowed deduction of INR 30,000 towards medical expenditure.

- Aggregate deduction in respect of health insurance premium and medical expenditure incurred in respect of parents would be limited INR 30,000.
- The limit of deduction under section 80DDB for very senior citizen for specified disease of serious nature has been increased to INR 80,000 from existing INR 60,000.
- The limit of deduction under section 80DD and 80U allowed for disabled persons has been increased to INR 75,000 from existing INR 50,000 and in respect of severely disabled person it has been increased to INR 1,25,000 from existing INR 1,00,000.
- The limit on deduction under section 80CCC on account of contribution to a pension fund and the new pension has been increased to INR 1,50,000 from existing INR 100,000.
- Additional deduction of INR 50,000 for contribution to the new pension scheme under section 80CCD.

- Payments to the beneficiaries including interest payment on deposit in Sukanya Samridhi scheme under section 80C to be fully exempt.
- 100% deduction has been proposed under section 80G for donations to National Fund for Control of Drug Abuse w.e.f. Assessment Year 2016-17.
- It is proposed that individuals not having taxable income and receiving payments under LIC upto INR 100,000 can claim relief of non deduction of tax at source by submitting Form 15G / 15H.
- Tax deduction at source on withdrawal of accumulated balance has been simplified. It is proposed that in case of premature withdrawals of INR 30,000 or more, where employers manage their own private provident fund trust, tax will be withheld @10%. If PAN is not furnished by the employee, tax will be withheld at maximum marginal rate. The amendment is proposed to be effective from June 1, 2015.
- The obtaining of TAN creates a compliance burden for those individuals or Hindu Undivided Family (HUF) who are not liable for audit under section 44AB. To reduce the compliance burden of these type of

deductors, Section 203A has been proposed to be amended w.e.f. June 1, 2015 to provide that the requirement of obtaining and quoting of TAN under section 203A of the Act shall not apply to the notified deductor or collectors. However, it is not clear as to how the deductors would deposit tax without obtaining TAN.

### **1.1.3. Abolition of wealth tax**

- It is proposed to abolish levy of wealth tax w.e.f. Assessment Year 2016-17 and achieve the objective of taxing high net worth persons by levying an additional surcharge of 2% in case of person having total income exceeding INR 1 Crore.

## **1.2. Corporate Tax**

### **1.2.1. Concession in corporate tax rate from next financial year**

- With a view to encourage higher level of investment, higher growth and more jobs, it has been proposed to reduce the current corporate tax rate from 30% to 25% for next four years.
- It is proposed to clarify that the reduction has to be accompanied by rationalization and removal of various kinds of exemptions and incentives which is leading to a large number of tax disputes.

- It is proposed that reduction in current corporate tax rate from 30% to 25% for next four years will start from the next financial year 2016-17.
- The rate of surcharge has been increased to 7% from existing 5% in case of taxable income > INR 10 Million, but < INR 100 Million for domestic companies for financial year 2015-16.
- The rate of surcharge has been increased to 12% from existing 10% in case of taxable income > INR 100 Million for domestic companies for financial year 2015-16.

### **1.2.3. Domestic transfer pricing threshold limit increased from INR 50 million to INR 200 million**

- It has been proposed to amend section 92BA to provide that the aggregate of specified transactions entered into by the assessee in the previous year should exceed a sum of INR 200 million for such transaction to be treated as 'specified domestic transaction'.

### **1.2.4. Extension of eligible period of concessional tax rate under section 194LD**

- It has been proposed to extend the concessional rate of 5% withholding tax on interest payment under the section 194LD upto 30th June, 2017. This amendment will take effect from June 01, 2015.

### **1.2.5 Pass through status for Category –I and Category-II Alternative Investment Funds**

- It is proposed to provide a pass through status for Category –I and Category-II Alternative Investment Funds AIFs (hereafter referred to as investment fund) set up in accordance with prescribed regulations. The taxation of income of such investment fund and their investors shall be in accordance with the proposed regime which is applicable to such funds irrespective of whether they are set up as a trust, company, or limited liability partnership etc. The salient features of the special regime are:-
  - Income of a person, being a unit holder of an investment fund, out of investments made in the investment fund shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person had the



investments, made by the investment fund, been made directly by him.

- Income in the hands of investment fund, other than income from profits and gains of business, shall be exempt from tax. The income in the nature of profits and gains of business or profession shall be taxable in the case of investment fund.
- Income in the hands of investor which is of the same nature as income by way of profits and gain of business at investment fund level shall be exempt.
- Where any income, other than income which is taxable at investment fund level, is payable to a unit holder by an investment fund, the fund shall deduct income-tax at the rate of ten per cent.
- The income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as if it had accrued or arisen to, the investment fund.

#### **1.2.6 Changes in tax regime for Real Estate Investment Trusts (REIT) and Infrastructure Investment Trusts (Invit)**

- Concessional tax regime of tax @15% on short term capital gain and exemption on Long term capital gain under section 10(38) of the Act to the sponsor on sale of units received in lieu of shares of SPV subject to levy of Security Transaction Tax is extended.
- Rental incomes arising to REIT from real estate property directly held by it to be treated as pass through.

#### **1.2.7 General Anti Avoidance Rule (GAAR) to be deferred by two years**

- GAAR provisions to be made applicable from Assessment Year 2018-19. Further, investments made up to March 31, 2017 are proposed to be protected from the applicability of GAAR.

#### **1.2.8 Incentives for the State of Andhra Pradesh and the State of Telangana**

- New section 32AD has been inserted to provide for an additional investment allowance of an amount equal to 15% of the cost of new asset

acquired and installed by an assessee, if he sets up a manufacturing unit on or after April 1, 2015 in any notified backward areas in the State of Andhra Pradesh and Telangana.

- Further, amendment has been made to section 32(i)(iia) to allow higher additional depreciation @ 35% (instead of 20%) in relation to acquisition and installation of plant and machinery for setting up of manufacturing units in the notified backward area in the State of Andhra Pradesh and Telangana.

### **1.2.9 Allowance of balance 50% additional depreciation**

- It has been proposed to amend second proviso to section 32(1)(iia) to provide that the balance 50% of the additional depreciation on new plant or machinery acquired and used for less than 180 days which has not been allowed in the year of acquisition and installation of such plant or machinery, shall be allowed in the immediately succeeding previous year.

### **1.2.10 Deduction for employment of new workmen**

- Section 80JJAA has been amended to benefit all assessees having manufacturing units rather than restricting it to corporate assessees only. Further, in order to enable the smaller units to claim this incentive, it is proposed to extend the benefit under the section to units employing even 50 instead of 100 regular workmen.

## **1.3. International Tax**

### **1.3.1. Reduction in rate of tax on Royalty / FTS in case of non-residents**

- In case of a non-resident taxpayer, any income by way of royalty and fees for technical services received by such non-resident from Government or an Indian concern after March 31, 1976 and which is not effectively connected with permanent establishment, if any, of the non-resident in India, tax shall be levied at the reduced rate of 10% on the gross amount of such income as against existing 25% on the gross amount.

### **1.3.2. Fund managers in India not to constitute business connection of offshore funds**

- In order to facilitate location of fund managers of off-shore funds in India a specific regime has been proposed in the Act, in line with international best practices. The proposed regime provides that in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund.
- Further, it is proposed that an eligible investment fund shall not be said to be resident in India merely because the eligible fund manager located in India undertakes fund management activities on its behalf. This specific exception from the general rules for determination of business connection and 'resident status' of off-shore funds and fund management activity undertaken on its behalf is subject to the conditions prescribed.
- It is further proposed that every eligible investment fund shall, in respect of its activities in a financial year, furnish within

ninety days from the end of the financial year, a statement in the prescribed form to the prescribed income-tax authority containing information relating to the fulfillment of the above conditions or any information or document which may be prescribed. In case of non furnishing of the prescribed information or document or statement, a penalty of INR 500,000 shall be leviable on the fund.

- It is also proposed to clarify that this regime shall not have any impact on taxability of any income of the eligible investment fund which would have been chargeable to tax irrespective of whether the activity of the eligible fund manager constituted the business connection in India of such fund or not. Further, the proposed regime shall not have any effect on the scope of total income or determination of total income in the case of the eligible fund manager.
- Whilst it is a welcome move to clarify that activities of fund manager shall not result in constitution of business connection, similar clarifications in case of other businesses is desirable.

### **1.3.3. Clarity relating to indirect transfer provisions**

- The recommendations of the Shome Committee in relation to indirect transfer of Indian assets, by alienating the shares of a foreign company which indirectly holds Indian assets have largely been accepted for implementation. The amendments will apply prospectively from Assessment Year 2016-17.

Following are the key proposals relating to indirect transfer taxation:

- i. Share or interest of a foreign company or entity shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if on the specified date, the value of Indian assets,-
  - (a) Exceeds the amount of INR 10 Crore ;  
and
  - (b) Represents at least 50% of the value of all the assets owned by the company or entity
- ii. Value of an asset shall mean the fair market value of such asset without

reduction of liabilities, if any, in respect of the asset.

- iii. The specified date of valuation shall be the date on which the accounting period of the company or entity, as the case maybe, ends preceding the date of transfer
- iv. However, if the book value of the assets of the company on the date of transfer exceeds by at least 15% of the book value of the assets as on the last balance sheet date preceding the date of transfer, then date of transfer shall be the specified date of valuation.
- v. The manner of determination of fair market value of the Indian assets vis-a-vis global assets of the foreign company shall be prescribed in the rules.
- vi. The taxation of gains arising on transfer of a share or interest deriving, directly or indirectly, its value substantially from assets located in India will be on proportionate basis. The method for determination of proportionality is proposed to be provided in the rules.

vii. The exemption shall be available to the transferor of a share of, or interest in, a foreign entity if he along with its associated enterprises,

- Neither holds the right of control or management,
- Nor holds voting power or share capital or interest exceeding 5% of the total voting power or total share capital, in the foreign company or entity directly holding the Indian assets (direct holding company).

viii. In case the transfer is of shares or interest in a foreign entity which does not hold the Indian assets directly then the exemption shall be available to the transferor if he along with its associated enterprises,-

- o Neither holds the right of management or control in relation to such company or the entity,
- o Nor holds any rights in such company which would entitle it to either exercise control or management of the direct holding company or entity or entitle it to voting power exceeding 5% in the direct holding company or entity.

ix. Exemption shall be available in case of amalgamation / demerger subject to certain conditions

x. There shall be a reporting obligation on Indian concern through or in which the Indian assets are held by the foreign company or the entity.

xi. In case of any failure on the part of Indian concern in this regard a penalty shall be leviable. The proposed penalty shall be-

- o A sum equal to 2% of the value of the transaction in respect of which such failure has taken place in case where such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern; and
- o A sum of INR 500,000 in any other case.

➤ The above amendment seems partly triggered by the recent decision of Delhi High Court in case of Copal Research Ltd (TS-569-HC-Del) wherein this threshold of 50% was laid down. It is a welcome

move that the Government has attempted to clarify several issues surrounding taxation of indirect transfers. However, several issues, e.g. computing value of assets of foreign company, placing onerous reporting requirements on Indian company in respect of transactions undertaken by non-residents outside India, etc. remain.

#### **1.3.4. Tax credit mechanism**

- Currently, no specific procedure exists in the law pertaining to allowance of credit for taxes paid outside India. It is proposed to grant powers to the Central Board of Direct Tax (CBDT) to lay down the procedure for granting relief of any tax paid by Indian residents in any foreign country or specified territory.

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

- Section 9 has been amended to provide that interest paid by a Permanent Establishment (PE) to its non-resident head office (being a non-resident engaged in banking business) shall be deemed to accrue or arise in India. This takes note of the observation by Special Bench of the

ITAT in the case of Sumitomo Mitsui Banking Corporation-[ITAT-(Mum)].

- PE shall be deemed to be a person separate and independent of the non-resident of which it is a permanent establishment and the provisions of the Act relating to computation of total income, determination of tax and collection and recovery would apply.

- PE to deduct tax while making interest payments failing which expenditure to be disallowed and attract levy of interest and penalty. w.e.f. April 01, 2016

#### **1.3.6. Central Board of Direct Taxes to prescribe the manner and procedure for computing period of stay in India**

- Section 6 has been amended to grant power to CBDT to prescribe the manner and procedure for computing period of stay in India for an Individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India. w.r.e.f. April 2015.

#### **1.3.7. Amendment to residency rule for companies**

- Conditions for determining residency status in respect of Companies under

section 6 is proposed to be amended w.e.f Assessment Year 2016-17 to provide that a company shall be said to be resident if a) it is an Indian company or b) if its place of effective management (POEM), at any time of the year, is in India

- POEM to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.
- It is proposed that in due course, a set of guiding principles to be followed in determination of POEM would be issued for the benefit of the taxpayers as well as, tax administration.
- With this amendment, several foreign companies promoted by Indian entrepreneurs run the risk of being considered resident in India and therefore being taxed in India. Such companies need to suitably review their operational structure in light of the aforesaid amendment.

### **1.3.8. MAT on Foreign Institutional Investors removed**

- Section 115JB has been amended to state that income from transactions in securities (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable) arising to a Foreign Institutional Investor shall be excluded from the chargeability of MAT and the profit corresponding to such income shall be reduced from the book profit.
- Related expenditure to be added while computing MAT w.e.f April 1, 2016 Assessment Year 2016-17.

### **1.3.9. Amendments relating to Global Depository receipts (GDRs)**

- The Depository Receipts Scheme, 2014 was notified by the Department of Economic affairs (DEA) vide Notification F.No.9/1/2013–ECB dated 21st October, 2014. As per this, DRs can be issued against the securities of listed, unlisted or private or public companies against underlying securities which can be debt instruments, shares or units etc; Further, both the sponsored issues and unsponsored deposits and acquisitions are permitted. DRs can be freely held and transferred by both residents and non-residents.

- Section 115ACA amended to restrict tax benefit from DR to income from sponsored GDRs and listed companies only W.e.f April 1, 2016 AY 2016-17.

## **1.4. Deduction/Collection at source**

### **1.4.1. Clarity on TDS/TCS provisions**

- It is proposed to amend section 194C w.e.f. June 1, 2015 to provide that relaxation from TDS to be applicable to the payment of transport charges (whether paid by a person engaged in the business of transport or otherwise) made to an contractor who is engaged in the business of transport who is eligible to compute income as per section 44AE of the Act (i.e a person who is not owning more than 10 goods carriage at any time during the previous year) and who has also furnished a declaration to this effect along with his PAN.
- Section 194A proposed to be amended to expressly provide with prospective effect from June 1, 2005 that exemption from TDS payment of interest to members by a co-operative society under section 194A(3)(v)) shall not apply to the payment of interest on time deposits by the co-operative banks to its members.
- It is proposed to amend the definition of ‘time deposits’ under section 194A to include recurring deposits within its scope subject to a TDS threshold of INR 10,000.
- TDS under section 194A from interest payment on the compensation amount awarded by the Motor Accident Claim Tribunal compensation w.e.f. June 1, 2015 shall be made only at the time of payment, if the amount of such payment or aggregate amount of such payments during a financial year exceeds INR 50,000.
- It is proposed to amend section 200A so as to enable computation of fee payable under section 234E at the time of processing of TDS statement under section 200A.
- To remove the possibility of charging interest on the same amount for the same period of default both under section 206C (7) and section 220(2), it is proposed to provide that where interest is charged for any period under section 206C (7) on the tax amount specified in the intimation



issued under proposed provision, then, no interest shall be charged under section 220(2) on the same amount for the same period.

- It is proposed to amend the provisions of section 192 to provide that the employer responsible for, computing tax deductible at source from salaries, shall obtain from the assessee evidence or proof or particulars of the prescribed claim (including claim for set-off of loss) in the prescribed form and manner before allowing such deduction in computing tax payable.
- Currently, the process of obtaining information on in respect of remittances which remitter declared as taxable defeated one of the main principles of obtaining information for foreign remittances i.e. to identify the taxable remittances on which tax was deductible but was not deducted. Section 195 has been proposed to be amended w.e.f. June 1, 2015 to provide that that the person responsible for paying any sum, shall be required to furnish the information of the prescribed sum in such form and manner as may be prescribed.

- New provision has been proposed to be inserted w.e.f. June 1, 2015 to provide that in case of non-furnishing of information or furnishing of incorrect information under section 195(6) of the Act, a penalty of INR 100,000 shall be levied unless there is reasonable cause for failure.

## **1.5. Procedure for Appeal**

### **1.5.1. Revision of order that is erroneous in so far as it is prejudicial to the interests of revenue**

- It has been proposed to amend section 263 to clarify that an order passed by Assessing officer shall be deemed to be “erroneous in so far as it is prejudicial to the interests of the revenue” if :
  - Order is passed without making inquiries or verification;
  - Order is passed allowing any relief without inquiring into the claim;
  - Order has not been made in accordance with any order, direction or instruction issued by the Board ;
  - Order has not been passed in accordance with any decision, prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

This amendment will be w.e.f June 1, 2015.

**1.5.2. Income limit of cases increased to INR 15 Lakh for single member bench**

- It is proposed to raise the income-limit of the cases that may be decided by single member bench of Income Tax Appellate Tribunal under section 255(3) from INR 500,000 to INR 1.5 million w.e.f. June 1, 2015.

**1.5.3. Expansion in ambit of appeals to Income Tax Appellate Tribunal**

- Appeal can now be filed before Tribunal against an order passed by the prescribed authority (Chief Commissioner and Director General) with respect to an order of denial of exemption to any university or other educational institution existing solely for educational purposes, and any hospital or other institution existing solely for philanthropic purposes.

**1.5.4. Provisions to avoid repetitive appeals**

- A new section is introduced to provide that where a question of law arising in case of an assessee for any assessment year is identical to the one pending before the Supreme Court for another assessment year for the same assessee (due to the

appeal or a special leave petition filed by the revenue), then the Commissioner or Principal Commissioner may direct the Assessing Officer to make an application to the Tribunal for filing the appeal after the decision of the Supreme Court becomes final and the order is in favour of the revenue. This is subject to the acceptance from the assessee that the question of law is identical.

**1.6. Miscellaneous**

**1.6.1. Exemption on donation to Swachh Bharat Kosh**

- Donations made by any donor to the Swachh Bharat Kosh and donations made by resident donors to Clean Ganga Fund will be eligible for a deduction of 100% from the total income. However, any sum spent in pursuance of Corporate Social Responsibility under section 135(5) of the Companies Act, 2013, will not be eligible for deduction from the total income of the donor. These amendments shall apply retrospectively from Assessment Year 2015-16.
- Considering the importance of Swachh Bharat Kosh and Clean Ganga Fund, it is also proposed to amend section 10(23C) of

the Act so as to exempt the income of Swachh Bharat Kosh and Clean Ganga Fund from income-tax with retrospective effect from Assessment Year 2015-16.

### **1.6.2. Rationalizing the provisions of section 115JB in case of Association of person (AOP)**

- Section 115JB has been amended to state that share of member of AOP in income of AOP which is non-taxable as per section 86 shall be excluded while computing MAT for member. Further, it is proposed to clarify that expenditure pertaining to such income shall be added back while computing MAT.

### **1.6.3. Measure to Curb Black Money**

➤ As a measure to curb black money, amendment has been proposed under section 269SS (w.e.f June, 2015) to provide that no person shall accept any loan or deposit or any sum of money, whether as advance or otherwise, exceeding INR 20,000, in relation to transfer of an immovable property otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account. Similarly, amendment is

proposed under section 269T debarring repayment of such loan or deposit in cash.

### **1.6.4. Disclosure and tax on offshore assets**

- Offshore holding structures will also be impacted by the stringent disclosure requirements and penal consequences introduced by this budget, which are discussed below.
- In 2012, it was made compulsory for Indian residents to disclose all offshore assets (including bank accounts, beneficial interest in trusts, etc.) in their tax returns, irrespective of whether any income has accrued to the resident in the relevant financial year. In order to identify and stem the generation of 'black money', the Finance Minister has proposed to introduce a Bill in the ongoing Parliamentary session to deal solely with offshore black money, with the following key features:
  - Income and asset concealment and tax evasion in relation to foreign assets will be a non-compoundable offence punishable with a penalty of 300% of tax due; 10 years' rigorous imprisonment and no recourse to the Settlement Commission;

- Not filing returns or filing returns with inadequate disclosure of foreign assets will also be an offence punishable with upto 7 years' rigorous imprisonment. The prosecution and penalty provisions will equally apply to individuals or entities that abet such offences;
  - Undisclosed income from foreign assets or income from undisclosed foreign assets will be taxable at the maximum marginal rate (30%) and will not be eligible for any statutory exemptions or deductions;
  - Beneficial owners of foreign assets or beneficiaries of foreign assets will be mandatorily required to file returns even if there is no taxable income;
  - The taxpayer is mandatorily required to specify the date of opening of the foreign account in the return of income.
- The Finance Minister also announced corresponding changes to related legislations of the Prevention of Money Laundering Act, 2002 (PMLA) and the Foreign Exchange Management Act (FEMA) indicating the Government's intention to have a comprehensive regime in place to tackle offshore black money. The Finance Minister has proposed to include 'concealment of income or evasion of tax in relation to a foreign asset' as a predicate offence under the PMLA, thus enabling the confiscation of foreign assets unaccounted for and prosecution of persons involved.
- Provisions of the PMLA and FEMA are also proposed to be widened to enable attachment and confiscation of equivalent assets in India where contraventions have occurred and the foreign asset cannot be forfeited. In addition, such contraventions are punishable with up to 5 years' imprisonment and penalty.
- 1.6.5. Definition of "charitable purpose" expanded with specific inclusion of "Yoga"**
- It has been proposed that "Yoga" should be included as a specific category in the definition of 'charitable purpose' under section 2(15). Income of a trust engaged in furtherance of charitable purpose is exempt from tax.
- Definition of 'charitable purpose' under section 2(15) proposed to be amended to

provide that the “advancement of any other object of general public utility” shall not be a charitable purpose, if it involves commercial activities unless:

- Such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and
- Aggregate receipts from such activity or activities, during the previous year, do not exceed 20% of the total receipts, of the trust or institution undertaking such activity or activities, for the previous year.

**1.6.6. Tax neutrality to unit holders upon consolidation of mutual fund schemes**

- It is proposed to provide tax neutrality to unit holders upon consolidation or merger of mutual fund schemes provided that the consolidation is of two or more schemes of an equity oriented fund or two or more schemes of a fund other than equity oriented fund w.e.f. AY 2016-17.

**1.6.7. Exemption of income of Core Settlement Guarantee Fund (SGF)**

- It is proposed to exempt income of Core Settlement Guarantee Fund (SGF) arising from contribution received and investment

made by the fund and from the penalties imposed by the Clearing Corporation subject to similar conditions as provided in case of Investor Protection Fund set up by a recognised stock exchange or a commodity exchange or a depository.

**1.6.8. Change in mechanism of weighted deduction under section 35(2AB)**

- To have better and meaningful monitoring mechanism for weighted deduction, Section 35(2AB) is proposed to be amended w.e.f. Assessment Year 2016-17 to provide that deduction shall be allowed if the company enters into an agreement with the prescribed authority for cooperation in such research and development facility and fulfills prescribed conditions with regard to maintenance and audit of accounts and also furnishes prescribed report.

**1.6.9. Amendment to penalty provision under section 271(1)(c)**

- To clarify the issues arising in computation of tax sought to be evaded for purposes of levy of penalty where tax is paid under MAT, it is proposed to provide that “amount of tax sought to be evaded” shall be the summation of tax sought to be

evaded under the general provisions and the tax sought to be evaded under the provisions of section 115JB or 115JC. But in case where an amount of concealment of income on any issue is considered both under the general provisions and section 115JB/ 115JC then such amount shall not be considered in computing tax sought to be evaded u/s 115JB or 115JC.

**1.6.10. Cost of acquisition of an asset in case of demerger**

- Cost of acquisition of an asset acquired by resulting company (in case of demerger) shall be the cost for which the demerged company acquired the capital asset as increased by the cost of improvement incurred by the demerged company w.e.f. Assessment Year 2016-17.

## INDIRECT TAX

### 2.1 CUSTOMS

#### 2.1.1. Tax Rate

There is no change in peak rate of customs duty rate of 10%. Generally effective Customs duty rate remains at 28.85%.

#### 2.1.2 Sectoral Impact

##### Metals & ores

Tariff item	Old	New
Basic Customs Duty on upgraded ilemenite	5%	2.5%
BCD on metallurgical coke	2.5%	5%

##### Chemicals and Petrochemicals

Tariff item	Old	New
Basic Customs duty on ulemenite ore	2.5%	Nil
Basic Customs duty on isoprene and liquefied butane	5%	2.5%
Basic Customs Duty on EDC, VCM, SM	2.5%	2%

##### Energy Sector

Tariff item	Old	New
BCD on Coking coal	Nil	2.5%
BCD on steam coal and bituminous coal	2%	2.5%
BCD on anthracite coal and other coal	5%	2.5%
CVD on Anthracite coal, Coking coal and other Coal	6%	2%

##### Renewable Energy

- Basic Customs Duty fully exempted on Evacuated Tubes with three layers of solar selective coating for use in the manufacture of solar water heater and system, subject to actual user condition.
- Basic Customs Duty on Active Energy Controller (AEC) for use in the manufacture of Renewable Power System (RPS) Inverters reduced to 5%, subject to conditions.

##### Automobiles:

- The tariff rate of Basic Customs Duty on Commercial Vehicles is being increased from 10% to 40%.

- The effective Basic customs duty on such Vehicles is being increased from 10% to 20%. However, customs duty on such vehicles in Completely Knocked Down (CKD) condition and electrically operated vehicles of heading 8702 including those in CKD condition will continue to be at 10%.
- Concessional customs duties of Nil Basic Customs Duty, 6% excise/CVD and Nil SAD on specified goods for use in the manufacture of Electrically operated vehicles and Hybrid motor vehicles, presently available upto 31.03.2015, are being extended upto 31.03.2016.

### **Health**

- Basic Customs Duty and CVD is being fully exempted on artificial heart (left ventricular assist device).

### **2.1.3 Rationalization of penalty provisions**

- It is proposed to provide that:
  - In cases not involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of

duty, no penalty shall be imposed if the amount of duty along with interest leviable under section 28AA or the amount of interest, as the case may be, as specified in the notice, is paid in full within 30 days from the date of receipt of the notice

- In cases involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of duty, the amount of penalty payable shall be 15% instead of the present 25%;

## **2.2 EXCISE**

### **2.2.1 Tax rate**

- Effective excise duty rate increased from 12.36% to 12.5%.
- Education Cess of 2% and Secondary and Higher Education Cess of 1% exempted on all products.

### **2.2.2 Sectoral impact**

#### **Automobiles**

- Excise duty on chassis for ambulances is



being reduced from 24% to 12.5% subject to actual user condition;

- Concessional rate of 6% on specified goods for use in manufacture of electrically operated vehicles and hybrid vehicles is extended by another year, i.e. upto 31.3.2016.

### **Renewable Energy**

- Excise duty on pig iron SG grade and Ferro-silicon-magnesium for manufacture of Cast components of wind operated electricity generators is being fully exempted, subject to certification by MNRE in this regard.
- Excise duty structure of NIL without CENVAT credit or 12.5% with credit is being prescribed for solar water heater and system.
- Excise duty on round copper wire and tin alloys for manufacture of Solar PV ribbon for manufacture of solar PV cells is being fully exempted subject to certification by Department of Electronics and Information Technology (DeitY).

### **Consumer Goods**

- Excise duty on leather footwear of Retail Sale Price of more than INR 1000 per pair is being reduced from 12% to 6%.

- The entry “waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured” in the Seventh Schedule to the Finance Act, 2005 related to levy of additional duty of excise @ 5% is being omitted.
- Till the enactment of the Finance Bill, 2015, the said additional duty of excise of 5% leviable on such goods is being exempted.
- Simultaneously, the Basic Excise Duty rate on these goods is being increased from 12% to 18%.

### **Electronics/Hardware**

- Excise duty on wafers for manufacture of integrated circuit (IC) modules for smart cards is being reduced from 12% to 6%, subject to actual user condition.
- Excise duty on inputs for use in the manufacture of LED drivers and MCPCB for LED lights, fixtures and lamps, is being reduced from 12% to 6%, subject to actual user condition.
- Excise duty structure for mobiles phones is being changed from 1% without CENVAT credit or 6% with credit to 1% without credit or 12.5% with credit.

NCCD of 1% on mobile phones remains unchanged.

- Excise duty structure of 2% without CENVAT credit or 12.5% with credit is being extended to tablet computers. Parts, components and accessories (falling under any Chapter) for use in manufacture of tablet computers and their sub-parts for use in manufacture of parts, components and accessories are being fully exempted from excise duty, subject to actual user condition.
- Excise duty on specified raw materials [battery, titanium, palladium wire, eutectic wire, silicone resins and rubbers, solder paste, reed switch, diodes, transistors, capacitors, controllers, coils (steel), tubing (silicone)] for use in manufacture of pacemakers is being fully exempted, subject to actual user condition.
- Suitable amendment is being carried out to expressly provide that LED lights or fixtures including LED lamps are liable to assessment of excise duty

## **2.3 SERVICE TAX**

### **2.3.1 Change in Service Tax rate:**

- Service Tax rate is being increased from 12% plus Education Cesses to 14% from a date to be notified by the Government. The 'Education Cess' and 'Secondary and Higher Education Cess' shall be subsumed in the revised rate of Service Tax. Thus, effective increase in Service Tax rate will be from existing rate of 12.36% (inclusive of cesses) to 14%.

### **2.3.2. Swachh Bharat Cess:**

- It is proposed to empower the Central Government to impose a Swachh Bharat Cess on any taxable services at a rate of 2% of the value of such taxable services with the objective of financing and promoting Swachh Bharat initiatives. The cess may be levied from a date notified by the Government. As and when this cess is levied, the effective rate of service tax may go up to 16%.

### **2.3.3 Negative list of services pruned:**

- The following services shall be brought into tax net:
  - Service provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks,

amusement arcades, water parks, theme parks, etc.

- Service by way of admission to entertainment event of concerts, non-recognized sporting events, pageants, music concerts, award functions, if the amount charged is more than INR 500 for right to admission to such an event.
- However, the existing exemption to service by way of admission to entertainment events, namely, “exhibition of cinematographic film, circus, recognized sporting events, dance, theatrical performances including drama and ballets, by way of the Negative List entry shall be continued.
- Service by way of carrying out any processes for production or manufacture of alcoholic liquor for human consumption.
- All services provided by the Government or local authority to a business entity, except the services that are specifically exempted, or covered by any other entry in the Negative List, shall be liable to Service Tax

#### **2.3.4 Withdrawal/pruning of exemptions**

- The exemption available to following services is being withdrawn:
  - Exemption presently available on specified services of construction, erection, commissioning, etc. provided to the Government, a local authority or a governmental authority shall be limited only to,-
    - (a) a historical monument, archaeological site or remains of national importance, archaeological excavation or antiquity;
    - (b) canal, dam or other irrigation work; and
    - (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.
  - Exemption to other services presently covered under S. No. 12 of notification No. 25/12-ST is being withdrawn.
  - 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 of (i) music, or (ii) dance, or (iii) theater, will be limited only to such cases where amount charged is upto Rs 1,00,000 for a performance.

➤ Exemption to transportation of food stuff by rail, or vessels or road will be limited to food grains including rice and pulses, flour, milk and salt. Transportation of agricultural produce is separately exempt, and this exemption would continue.

➤ The following services to be chargeable to service tax on reverse charge basis:

(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.

➤ Exemption is being withdrawn on the following service,-

(a) Departmentally run public telephone;

(b) Guaranteed public telephone operating only local calls; and

(c) Service by way of making telephone calls from free telephone at airport and hospital where no bill is issued.

The above changes shall come into effect from April 1, 2015.

### **2.3.5 Rationalization of Abatements (w.e.f. April 1, 2015):**

➤ A uniform abatement is now being prescribed for transport by rail, road and vessel. Service Tax shall be payable on 30% of the value of such services subject to a uniform condition of non-availment of Cenvat Credit on inputs, capital goods and input services.

➤ Service Tax is payable on 40% of the value of air transport of passenger for economy as well as higher classes, e.g. business class proposed to enhanced to 60% of such value, making air travel costlier.

➤ Service Tax shall be paid by the chit fund foremen at full consideration received by way of fee, commission or any such amount though Cenvat Credit would be allowable.

### **2.3.6 New exemptions**

- The following services shall be exempt from service tax with effect from April 1, 2015:
  - Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables;
  - Service provided by a Common Effluent Treatment Plant operator for treatment of effluents;
  - Life insurance service provided by way of Varishtha Pension Bima Yojna;
  - Service provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or association of persons consisting of such exhibitor as one of its members;
  - Hitherto, any service provided by way of transportation of a patient to and from a clinical establishment by a clinical establishment is exempt from service tax. The scope of this exemption is being widened to include all ambulance services.

- Service provided by way of admission to a museum, zoo, national park, wild life sanctuary, and a tiger reserve;
- Goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport is exempt from service tax. Scope of this exemption is being widened to exempt such services when provided for transport of export goods by road from the place of removal to a land customs station (LCS).

### **2.3.7 Other changes.**

- It is being prescribed specifically that consideration liable to service tax shall include all reimbursable expenditure or cost incurred and charged by the service provider.
- Penalty provisions being made more stringer to omit the provision which provided for reduced penalty if true and complete details of transaction were available on specified records.

- In cases not involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner, penalty not to exceed 10% of service tax amount; further, no penalty is to be paid if service tax and interest is paid within 30 days of issuance of show cause notice and reduced penalty of 25% if the service tax, interest and reduced penalty is paid within 30 days of such order;
  
- In cases involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner,-
  - (i) penalty shall be 100% of service tax amount;
  - (ii) penalty equal to 15% of the service tax amount is to be paid if service tax, interest and reduced penalty is paid within 30 days of service of show cause notice;
  - (iii) a reduced penalty equal to 25% of the service tax amount if the service tax, interest and reduced penalty is paid within 30 days of such order;

The above changes 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;

- Provision for issuing digitally signed invoices is being inserted along with the option of presentation of records in electronic form.
  
- Manpower supply and security services when provided by an individual, HUF, or partnership firm to a body corporate, currently under partial reverse charge mechanism, are proposed to be brought under full reverse charge mechanism with effect from April 1, 2015.
  
- It is proposed to allow credit of service tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider with effect from 1.4.2015.

## **2.4 GOODS AND SERVICES TAX**

- GST to be implemented from 1 April 2016.



- As a precursor to the same, education cess and higher education cess removed; service tax rate increased by 2%’ central excise rate increased by 0.5%.
- E-compliances introduced to facilitate GST implementation, e.g. allowing issuance of digital invoices, time bound online registrations under excise and service tax, and maintenance of electronic records.