

ANALYSIS OF PROVISIONS OF FINANCE BILL 2013 FOR F.Y 2013-14

UNION BUDGET 2013 AS PRESENTED ON 28th FEBRUARY 2013

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Understanding Budget

References to budget can be found in Kautilya's Arthashastra. It states that the Chancellor should first estimate revenue from each place and sphere of activity under different heads of accounts and then arrive at a grand total. The actual revenue is to be estimated by adding receipts into the treasury for current year and delayed payments received which were due in earlier year/s. From this deduct the expenditure on king, standard rations, other exemptions granted by King and authorised postponement of payments into treasury. The outstanding revenues were estimated from work under construction for which revenue will accrue on completion, unpaid fines, unrecoverable dues, uncollectible sums, advances to be repaid by officers etc.

The budget is prepared by the Finance Minister with the assistance of number of advisors and bureaucrats. The Finance Minister seeks the view of the industry captains and economists prior to preparation. Various accounting and finance related organisations send in their opinions and suggestions. The budgeting exercise in India remains mainly the domain of bureaucrats to participate and influence the outcomes.

Normally, the budget-making process starts in the third quarter of the financial year. The budget has four stages viz., (1) estimates of expenditures and revenues, (2) first estimate of deficit, (3) narrowing of deficit and (4) presentation and approval of budget.

Budget Documents

1. Key to Budget
2. Budget Highlights
3. Annual Financial Statement
4. Finance Bill
5. Memorandum
6. Budget at a Glance
7. Expenditure Budget
8. Receipts Budget
9. Customs & Central Excise
10. Implementation of Budget Announcements
11. The Macro Economic Framework Statement
12. The Medium Term Fiscal Policy Statement
13. The Fiscal Policy Strategy Statement

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Changes at Glance

1.	For service tax due from 2007, one-time Amnesty Scheme introduced
2.	Excise duty on all mobile phones above Rs 2000 increased to 6%
3.	Amendment as a consequence to certain Courts decisions are incorporated in direct tax proposals
4.	Service tax levied on all air conditioned restaurants and distinction of serving liquor is removed
5.	Excise duty on Cigarettes increased by 18%
6.	Additional surcharge on companies
7.	Customs and excise duties remains unchanged
8.	Donations to National Children's fund will be eligible for 100% tax deduction
9.	Reduced securities transaction tax (STT) on equity futures to .01% from .017%.
10.	Revised Direct Taxes Code Bill to be resubmitted to Parliament for discussion
11.	TDS on transfer of immovable properties above Rs. 50 lakhs shall be 1%
12.	Amended version of GAAR which will be effective from 01-04-2016
13.	25% TDS rate from payment of royalty and FTS, however, taxability will continue to be governed by DTAAs
14.	Investment allowance of 15% if investment exceeds Rs. 100 crores in plant and machinery
15.	No changes in Income Tax rates
16.	10% surcharge introduced for tax payers whose taxable income exceeds Rs. 1 crore
17.	Tax credit of Rs. 2,000 for tax payers with taxable income of upto Rs. 5,00,000
18.	FII can participate in currency derivatives

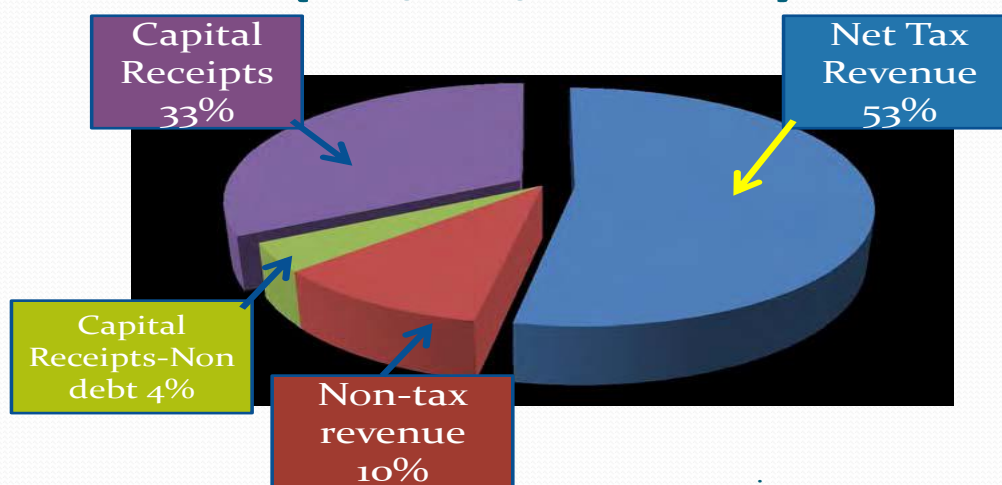
Budget at a Glance

Particulars	2012-2013 (in Crores)	2013-2014 (in Crores)
Revenue Receipts	935685	1056331
Capital Receipts	555241	608967
Total Receipts	1490925	1665297
Non Plan Expenditure	969900	1109975
Plan Expenditure	521025	555322
Total Expenditure	1490925	1665297
Revenue Deficit	350424 (3.4)	379838 (3.3)
Fiscal Deficit	513590	542499

GDP for BE 2013-2014 has been projected at ` 11371886 crore assuming 13.4% growth over the Advance Estimates of 2012-2013 (` 10028118 crore)

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SOURCES OF REVENUE (16,65,297 Cr)



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Sector wise initiatives

Sector	Highlights of amedmend
Auto & Auto Ancillaries	Excise duty on non-taxi SUV's hiked
Aviation	Concessions announced only for MRO industry
Banking / Financial Services	Additional interest deduction beneficial for HFC's; Interest subvention scheme extended to private sector banks
Capital Goods	Investment allowance of 15% on investment of Rs 100 crore or more during 1/4/2013 to 31/3/2015 in plant and machinery and Infrastructure push
Cement	No hike in excise duty; Infrastructure push in the areas of road, irrigation and low cost housing
FMCG / Consumer Durables	Increase in the specific excise duty on cigarettes (not exceeding 65 mm) by 18%
Healthcare / Pharma	Rs 37,330 crore allocated to the Ministry of Health & Family Welfare
Infrastructure	Clearance of stalled road projects; setting up of regulatory authority for road sectors
IT / BPO's	0% customs duty on plant & machinery for semi conductor industry
Media	Duty on STB increased from 5% to 10%
Metals & Mining	A PPP policy framework with Coal India Ltd as in order to increase the production of coal
Oil & Gas	NELP blocks that were awarded but are stalled to be be cleared
Power	80 IA benefit for power plants extended by another year

Measures to increase revenue

- In a bid to curtail revenue losses he has introduced several measures like the 1% TDS on immovable property, withholding tax on royalty payments, voluntary disclosure scheme for Service Tax evaders since 2007 and final withholding tax on share buybacks by unlisted companies
- Further there has been no revision of the income slabs and the rates which is pragmatic given the pressures on revenue. Further a tax on the super rich introduced has gone down well with the markets.
- A 15% Investment allowance on plant and machinery over Rs 100 crores should definitely provide a fillip to asset creation and spur investment in the manufacturing sector. This is over and above the depreciation rates prevailing.
- Surcharge introduced on companies earning a taxable income of Rs 10 crore or more should also help swell the kitty.
- Pruning of the negative list to only two sectors should help increase the gamut of services liable to service tax
- But the biggest clincher is the Voluntary Compliance Encouragement Scheme on Service tax which proposes to tax the 10,00,000 non service tax payers out of the 17,00,000 lacs registered assesseees. This itself should lead to a healthy collection; although the estimated amount has not been quantified.
- Further reduction in STT and introduction of CTT (Commodities transaction Tax) should help lower cost of transactions for traders in the equity markets.
- Non Tax revenue estimates (in the form of divestment, sale of other market securities and enhanced dividends from PSEs) are also pragmatic and achievable

Direct Taxes

- Status quo maintained on income slabs and rates as per last year.
- However a Rs 2,000 tax credit is provided to every assessee with an income upto Rs 5,00,000
- 10% surcharge imposed on assesseees with income of Rs 1 crore and above
- Surcharge raised to 10% (5%) on domestic companies with taxable income above Rs 10 crore. For foreign companies surcharge increased to 5% (2%)
- 1st home buyers who take a loan not exceeding Rs 25 lacs to be provided an additional deduction of interest of Rs 1 lac . This limit is over and above the current Rs 1.5 lacs. This is to be claimed in AY FY14- 15. If limit not exhausted, can be carried over to the next assessment year.
- For persons with disability or suffering from certain ailments permissible premium rates of insurance have been increased to 15% from 10% on the sum assured
- Donations to the National Children's Fund eligible for 100% deduction.
- Investment allowance of 15% on investment in Plant & Machinery of over Rs 100 crore provided.
- Section 80-IA benefits to power sector eligible date extended to March 2014.

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- Timeline on concession rate of tax of 15% on repatriation of dividends from a foreign subsidiary to a domestic parent company extend to FY2013. Further Dividend Distribution Tax set to 0% on that portion of the dividend distributed by the Indian parent.
- Withholding tax on Interest paid on investments made through Rupee denominated long term infrastructure bonds to NRIs reduced to 5% from 20%
- Securitization Trusts to be exempt from Income Tax. Tax on income distributed by the Securitization trusts to be at the rate of 30% for companies and 25% for individuals / HUF.
- Investor Protection Fund set up by a depository exempt from Income Tax
- Pass through status provided to Category I Alternate Investment Funds (AIF) and Angel Investors recognized as Category I AIFs. This is on par with Venture Funds
- RGESS timeline extended 3 consecutive years and income limit augmented to Rs 12 lacs from Rs 10 lacs. MF also made an eligible investment.
- 1% TDS to be imposed on immovable property transactions above value of Rs 50 lacs. Agricultural land is however exempt
- To plug loop holes a withholding tax of 20% is to be imposed on unlisted companies who distribute profits through buy back of shares.
- Tax rates on payment of royalties and fees for technical services to non resident Indians hiked to 25% from
- 10%. However applicable rates to be as stipulated in the DTAA.
- STT (Securities Transaction Tax) reductions are as follows
 - Equities 0.01% (0.017%)
 - MF / ETF redemptions at fund counters 0.001% (0.25%)
 - MF / ETF purchase / sale on exchanges 0.001% (0.01%)
- CTT (Commodities Transaction Tax) on non agricultural commodities of 0.01% to be introduced. However it will be allowed as a deduction.

GAAR still nothing clear

- The FM has again raked up the controversy of GAAR by suggesting that the TRC (Tax Residency Certificate) merely itself would not be sufficient for foreign investors & non-resident Indians to avail tax treaty benefits.
- Further tax authorities have been provided with additional powers to decide on tax issues at their discretion.
- This change has impact on all non-resident investors and FIIs using these routes for channeling investments into India and seeking to claim tax treaty benefits.
- Moreover the change is proposed with retrospective effect from FY12-13 which will bring any investor, availing treaty benefits under scrutiny.

Indirect Taxes

- No change in the normal rate of excise duty (12%), service tax rates (12%) and customs duty
- Customs duty proposals
 - a) on leather & leather goods lowered to 5% from 7.5% while concessionary period on environmental friendly vehicles extended to FY2015.
 - b) On pre forms of precious and semi precious stones duty lowered to 2% from 10%
 - c) Export duty on de-oiled rice bran oil cake withdraw
 - d) 10% Duty imposed on export of raw ilmenite & 5% on upgraded ilmenite
 - e) Significant concessions provided to the aircraft MRO (maintenance, repair and overhaul) industry
 - f) Raw silk duty increased from 5% to 15%
 - g) Duty on steam coal and bituminous coal equalized to 2% and CVD of 2%
 - h) Duty free limit on gold jewellery raised to Rs 50,000 for males and Rs 1,00,000 for female passengers.
 - i) Duty on imported high end vehicles raised to 100% (75%), +800 cc motorcycles to 75% (60%) and yachts 25% (10%)

Excise duty

- Handmade carpets and textile floor coverings of coir / jute and ships and vessels totally exempted.
- Consequently no CVD on imported ships
- Excise duty on Cigarettes and cigars to be increased by 18%
- Excise on SUVs increased to 30% (27%). Not applicable to taxis
- Duty on marble increased from Rs 30 / sq mt to Rs 60 / sq mt
- Silver manufactured from smelting zinc / lead taxed at 4%
- Duty on mobile phones above Rs 2000 raised to 6% (1%)
- Branded alternate medicines to be taxed on MRP. Abatement of 35% to exist

Service Tax

Amendment to Definition of Negative List

a. The courses in 'designated trades' offered by Industrial Training Institute or Industrial Training Center affiliated to State Council of Vocational Training will also be covered by the negative list.

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b. Definition of "process amounting to manufacture or production of goods", in section 65B(40) being amended to include processes on which duties of excise are leviable under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955(16 of 1955);

c. The testing activities directly related to production of any agricultural produce like soil testing, animal feed testing, testing of samples from plants or animals, for pests and disease causing microbes will be covered by the negative list.

- The maximum penalty imposable for failure to obtain registration will be ten thousand rupees only.
- Section 78A is being introduced, to make provision for imposition of penalty upto Rs. 1,00,000 on director, manager, secretary or other officer of the company, who is in any manner knowingly concerned with specified contraventions.

Abatement available to real estate developer

At present taxable portion for service tax purpose is prescribed as 25% uniformly for constructions where value of land is included in the amount charged from the service recipient. This is being rationalized. Accordingly, where the carpet area of 2324 residential unit is upto 2000 square feet. or the amount charged is less than One Crore Rupees, in the case of 'construction of complex, building or civil structure, or a part thereof, intended for sale to a buyer, wholly or partly except where the entire consideration is received after issuance of completion certificate by the competent authority', taxable portion for service tax purpose will remain as 25%; in all other cases taxable portion for service tax purpose will be 30%. This change will come into effect from the 1st day of March, 2013.

Review of Exemptions

- a. Charitable organizations – Exemption Limit reduced from Rs. 25 Lacs to the threshold
- b. Exemption provided to restaurants other than those having (i) air-conditioning and (ii) license to serve liquor, is being rationalized; condition regarding 'license to serve liquor' is being omitted. Therefore, with effect from 1st April, 2013, service tax will be leviable on taxable service provided in restaurants with air-conditioning or central air heating in any part of the establishment at any time during the year.
- c. The following exemptions are being withdrawn:
 - i. Services provided by an educational institution by way of renting of immovable property.

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ii. Temporary transfer or permitting the use or enjoyment of a copyright relating to cinematographic films was fully exempt so far; now, this exemption will be restricted to exhibition of cinematograph films in a cinema hall or a cinema theatre.

iii. Services by way of vehicle parking to general public.

iv. Services provided to Government, a local authority or a governmental authority, by way of repair or maintenance of aircraft.

Voluntary Compliance Encouragement Scheme for Service Tax

- Out of nearly 17 lakh registered assesses under Service Tax only 7 lakhs file returns regularly.
- A onetime scheme called 'Voluntary Compliance Encouragement Scheme' proposed to be introduced.
- Defaulter may avail of the scheme on condition that he files truthful declaration of Service Tax dues since 1st October 2007.

IMPORTANT INCENTIVES AND RELIEFS

INVESTMENT ALLOWANCE - Section 32AC

If any Company:

1. is engaged in the business of manufacture or production of any article or thing, and
2. acquires and installs "new asset" costing more than Rs 100 Crore between 31st March, 2013 to 1st April, 2015,

Then following deduction is proposed to be allowed:

Assessment Year	Conditions	Quantum of Deduction
2014-15	If actual cost of "New Assets" acquired and installed in Financial Year 2013-14 is more than Rs 100 Crore	15% of actual cost of "New Assets" Acquired
2015-16	If actual cost of "New Assets" acquired and installed in Financial Years 2013-14 and/or 2014-15 is more than Rs 100 Crore	15% of actual cost of "New Assets" Acquired during Financial Years 2013-14 and/of 2014-15 minus Deduction already allowed under this section during Assessment Year 2014-15

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POWER SECTOR – EXTENTION OF SUNSET DATE - Section 80IA

Currently Deduction under Section 80IA is available to any undertaking which

- is set up in any part of India for the generation or generation and distribution of power if it begins to generate power at any time during the period beginning on 1st April, 1993 and ending on 31st March, 2013;

(b) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on 1st April, 1999 and ending on 31st March, 2013;

(c) undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines at any time during the period beginning on 1st April, 2004 and ending on 31st March, 2013.

It is proposed to extend the last date from 31st March 2013 to 31st March 2014.

REBATE OF RS 2000/- TO INDIVIDUALS HAVING TOTAL INCOME UPTO RS 5 LAKH – SECTION 87

- If an Individual, resident in India
- Has Total Income upto Rs 500000/-
- Then Deduction from Tax Payable is available on
 - a. Income Tax Payable or
 - b. Rs 2000/-Whichever is lower.

DEDUCTION OF INTEREST ON HOUSING LOAN – SECTION 80EE

If an Individual

- Purchases a Residential Property of value below Rs 40 Lakhs; and
- Takes a loan below Rs 25 Lakhs form Financial Institution which is sanctioned between 01.04.2013 to 31.03.2014; and
- Does not own any residential house property on the date of sanction of the loan.

Then deduction from Total Income under this section is proposed to be allowed as follows:

Assessment Year	Additional Conditions	Quantum of Deduction
2014-15	NIL	Amount of Interest paid or Rs 100000/- whichever is less
2015-16	If Interest paid in Assessment Year 2014-15 is less then Rs 100000/-	Lower of <ul style="list-style-type: none">• Interest paid during the Assessment Year or• Rs 100000/- minus Deduction claimed in Assessment Year 2014-15.

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Where a deduction under this section is allowed for any interest referred above, deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year.

- **SECTION 80C**

It is proposed to allow deduction under section 80C to the abovementioned persons if the premium payable for any of the years during the term of the policy does not exceed 15% of the actual capital sum assured on Life Insurance Policy issued after 01.04.2013

DONATION TO NATIONAL CHILDREN'S FUND – SECTION 80G

Donation made to National Children's Fund is now proposed to be allowed @ 100% of donation.

DIVIDEND RECEIVED FROM FOREIGN COMPANIES – SECTION 115BBD

If an Indian Company,

- Whose total income for the financial years 2011-12 or 2012-13 includes any dividend income declared, distributed or paid by
- A foreign company in which the Indian Company holds more than 26% of the nominal value of the equity share capital.

Then its income tax payable on total income shall be calculated as follows:

- Tax on above mentioned dividend income at 15% and
- Tax on (total income minus abovementioned dividend Income) at tax rates otherwise applicable to that Indian Company.

The above relief is now proposed to be extended to Dividend received for Financial Year 2013-14 also.

REMOVAL OF CASCADING EFFECT OF DIVIDEND DISTRIBUTION TAX FROM FOREIGN SUBSIDIARY – SEC 115-O

It is proposed that in calculating the amount on which Dividend Distribution Tax is to be paid by a domestic Company, the amount of Dividend received from Foreign Subsidiary/ies on which tax is paid under section 115BBD is to be deducted.

This amendment will take effect from 1st June 2013.

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TDS ON TRANSFER OF IMMOVABLE PROPERTIES (OTHER THAN AGRICULTURAL LAND) – SECTION 194-IA

It is proposed that,

- Of transfer of an immovable property;
- TDS is required to be deducted by the transferee on,
- At the rate of 1% on Consideration
- If the Consideration more than Rs.50 lacs,

This amendment is proposed to be applicable from 01.06.2013.

TAX ON BUY BACK OF UNLISTED SHARES – SECTION 115QA

It is proposed that if,

- An unlisted company
- Distributes its income to its shareholders on buy – back of its shares from them

Then,

- The Company is liable to pay additional income tax at the rate of 20% on such “distributed income”.
- The amount received by the Shareholder would be exempt.

The word “distributed income” means consideration paid by the unlisted company on buy-back of its shares minus the amount that was received by it for issue on the issue of shares.

The above amendment is proposed to be applicable from 01.06.2013.

TAXABILITY OF IMMOVABLE PROPERTY RECEIVED FOR INADEQUATE CONSIDERATION – SECTION 56

Where any Property is received by an Individual or HUF for a consideration, where the Stamp Duty Valuation of Such Property *minus* Value of consideration is more than Rs 50000/- then the difference between Stamp Duty Valuation and actual Consideration is to be treated as Taxable Income.

The above amendment is proposed to be applicable from 01.04.2014.

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AMENDMENT IN GAAR

- The GAAR provisions and Section 1444BA introduced by Finance Act 2012 are omitted.
- The new GAAR provisions and Section 144BA are inserted, which will apply from 1st April, 2016 ie. From Assessment Year 2016-17.
- The differential effects between old GAAR and Current proposal are as follows.
 1. As per old GAAR, impermissible avoidance arrangement included the main purpose or one of the main purposes of which is to obtain tax benefits. As per Current proposal an impermissible avoidance arrangement shall include only “the main purpose of which is to obtain a tax benefit”.
 2. The following factors which were not taken into account for determining whether an arrangement lacks commercial substance or not, will be now relevant but shall not be sufficient for the same, namely-
 - the period or time for which the arrangement (including operations therein) exists;
 - the fact of payment of taxes, directly or indirectly, under the arrangement;
 - the fact that an exit route (including transfer of any activity or business or operations) is provided by the arrangement
 3. An arrangement shall be deemed to lack commercial substance, if it does not have a significant effect upon the business risks or net cash flows of any party to the arrangement apart from any effect attributable to the tax benefit that would be obtained (but for the provisions of this Chapter) in addition to the prior provisions.
 4. The constitution of Approving Panels appointed for the purpose of declaration of the arrangement as an impermissible avoidance arrangement has been changed.
 5. The directions issued by the Approving Panel shall be binding on the assessee as well as the income-tax authorities and no appeal against such directions can be made under the provisions of the Act. As per prior provisions it were binding only on Assessing officer.
 6. As per new provisions, the Central Government may constitute one or more Approving Panels as may be necessary and the term of the Approving Panel shall be ordinarily for one year and may be extended from time to time up to a period of three years.
 7. As per new provisions, “associated person” and “connected person” will be combined and there will be only one inclusive provision defining a ‘connected person.

CONTRIBUTION TO POLITICAL PARTY OR ELECTROL TRUST – SECTION 80GGB AND 80GGC

It is proposed that any Donation given by way of Cash to any Political Party or Electrol Trust shall not be allowed as Deduction under this section.

TAX RESIDENCY CERTIFICATE

Submission of a tax residency certificate is a necessary but not a sufficient condition for claiming benefits under the agreements referred to in sections 90 and 90A

APPLICATION OF SEIZED ASSETS – SECTION 132B

As per existing provisions, seized assets may be adjusted against

- any existing liability under the Income-tax Act, Wealth-tax Act, the Expenditure-tax Act, the Gift-tax Act and the Interest-tax Act and
- the amount of liability determined on completion of assessments pursuant to search,
- including penalty levied or interest payable and

in respect of which such person is in default or deemed to be in default.

It is clarified that the above mentioned term “existing liability” does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII of the Act. This amendment will be applicable from 1st June, 2013.

RETURN OF INCOME WITHOUT SELF ASSESSMENT TAX – TO BE TREATED AS DEFECTIVE RETURN – SECTION 139(9)

As per Proposed Provisions, the return of income shall be regarded as defective unless the tax together with interest, if any, payable in accordance with the provisions of section 140A has been paid on or before the date of furnishing of the return. This amendment will take effect from 1st June, 2013.

E-FILING OF RETURN OF NET WEALTH

It is proposed to facilitate filing of Wealth Tax Return Electronically for which no annexure would be needed.

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a) Amendment in mega exemptions notification no. 25/2012-ST dated 20th June, 2012

- **Following exemptions are rationalized from 1.4.2013:**

- ❖ **Restaurants with only Air-condition taxable** – Under entry no. 19 of notification, exemption provided to restaurants other than those having (i) air-conditioning and (ii) license to serve liquor, is being rationalized; condition regarding 'license to serve liquor' is being omitted. Therefore, with effect from 1st April, 2013, service tax will be leviable on taxable service provided in restaurants with air-conditioning or central air heating in any part of the establishment at any time during the year.

- ❖ **Additions in exemption of services of GTA:** Under entry no. 21 of notification, following additional services provided by Goods transport agency (GTA) by way of transport in a goods carriage would be exempt:

- a) agricultural produce

- b) foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages;

- c) chemical fertilizer and oilcakes;

- d) newspaper or magazines registered with the Registrar of Newspapers;

- e) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or

- f) defence or military equipments

- ❖ **Exemption to charitable organization:** As per section 2(k) of notification no. 25/2012-ST dated 20.6.2012 (hereinafter referred as notification), charitable activities would be activities relating to advancement of any other object of general public utility up to value of Rs. 25 lacs per annum. Now, such limit of Rs 25 Lakh Rupees per annum will be covered by the threshold exemption limit i.e. 10 lakh Rupees per annum.

- **Following exemptions are withdrawn from 1.4.2013**

- ❖ **Services by Education institution:** Under entry no. 9 of notification, Services provided by an educational institution by way of renting of immovable property would not be exempt from service tax from 1st April, 2013.

- ❖ **Exemption for Cinematographic films:** Under entry no 15 of notification, temporary transfer or permitting the use or enjoyment of a copyright relating to cinematographic films was fully exempt so far; now, this exemption will be restricted to exhibition of cinematograph films in a cinema hall or a cinema theatre.

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- ❖ **Transportation of certain goods:** From entry no. 20 of notification, services by way of transportation by rail or a vessel from one place in India to another of the following goods would be omitted and the same would not be exempt from service tax -
 - (a) petroleum and petroleum products falling under Chapter heading 2710 and 2711 of the First Schedule to the Central Excise Tariff Act, 1985;
 - (b) postal mail or mail bags
 - (c) household effects
- ❖ **Vehicle parking to general public:** entry no. 24 of notification, services by way of vehicle parking to general public excluding leasing of space to an entity for providing such parking facility, would be omitted and accordingly the same would be liable for service tax.
- ❖ **Services provided to Government, a local authority or a governmental authority:** In entry no. 25 of notification, services provided to Government, a local authority or a governmental authority, by way of repair or maintenance of aircraft would be omitted and the same would not be exempt from service tax.

Reduction in abatement for construction industry

At present as per notification no. 26/2012-ST, dated 20.6.2012, with respect to construction, taxable portion for service tax purpose is prescribed as 25% uniformly where value of land is included in the amount charged from the service recipient. However, following rates are prescribed for taxable portion for service tax purpose of construction with effect from 1st March, 2013:

Sr. no in circular no 26/2012-ST, dated 20.6.2012	Description of taxable service	Tax to be levied on percentage of taxable value	Condition
12	Construction of a complex, building, civil structure or a part thereof, intended for a sale to a buyer, wholly or partly except where entire consideration is received after issuance of completion certificate by the competent		(i) CENVAT credit on inputs used for providing the taxable service has not been taken under the provisions of the CENVAT Credit Rules, 2004;

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	authority,- (i) for residential unit having carpet area upto 2000 square feet or where the amount charged is less than rupees one crore	25%	(ii) The value of land is included in the amount charged from the service receiver
	(ii) for other than the (i) above	30%	

Amendment in section 66B - charge of service tax on and after Finance act, 2012

Explanation to Section 66B of the act would be omitted and said explanation has been proposed to be inserted as new section 66BA. As per this new section, if in earlier finance act references to section 66 (charging section under the positive list approach) in Chapter V of the Finance Act, 1994 or any other act, has been given; in such case such reference would be construed as reference to section 66B (charging section under the negative list approach), with effect from the 1st day of July, 2012. Accordingly, reference to section 66 appearing in the Finance (No.2) Act, 2004 and the Finance Act, 2007, in the context of education cesses will be read as 66B, in accordance with this new section.

Amendment in section 66D(d): Services related to agriculture or agriculture produce

As per section 66D(d)(i) of the act, services relating to agriculture or agricultural produce by way of agricultural operations directly related to production of any agricultural produce including cultivation, harvesting or seed testing would be exempt from service tax.

It is proposed to remove word 'seed' from the expression 'seed testing' in section 66D(d)(i) of the act. As a result of removal of word 'seed', testing activities not only directly related to seed testing but also directly related to production of any agricultural produce like soil testing, animal feed testing, testing of samples from plants or animals, for pests and disease causing microbes will be covered by the negative list.

Amendment in section 73: recovery of service tax not levied or paid or short levied or short paid or erroneously refunded

As per section 73 of the act, where any service tax has not been levied or paid or has been short-levied or short paid or erroneously refund, officer can serve notice to recover such amount. In section 73 of the act, new subsection 2A has been proposed to be inserted.

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As a result of insertion of sub-section 2A, if a central excise officer has issued show cause notice by reason of fraud, collusion, willful mis-statement, suppression of facts or contravention of act with intent to evade payment of service tax by person; however, appellate authority or tribunal or court concludes that such notice is not sustainable. In such case such notice will be deemed to be a notice issued for a period of 18 months under section 73(1) of the act. Further, with respect to such notice, such notice would be consider as if the notice was issued for the offences for which limitation of 18 months would apply for recovery of service tax not levied or paid or short levied or short paid or erroneously refunded.

Amendment in section 77(1) - Penalty for failure to obtain registration

As per section 77(1) of the act, if person who liable to pay service tax or required to take registration but he fails to take registration as per section 69 or rules made. In such case person who be liable to pay a penalty of higher of Rs. 10,000 or Rs. 200 for every day upto which such failure continues.

Now it proposed that for failure to obtain registration, maximum penalty would be imposed of Rs. 10,000 only.

New section 78A - Penalty on director, manager, secretary or other officer for contravention by company

As per new section 78A of the act, if company has committed any of the following contravention namely:

- a) evasion of service tax; or
- b) issuance of invoice, bill or, as the case may be, a challan without provision of taxable service in violation of the rules made under the provisions of this Chapter; or
- c) availment and utilisation of credit of taxes or duty without actual receipt of taxable service or excisable goods either fully or partially in violation of the rules made under the provisions of this Chapter; or
- d) failure to pay any amount collected as service tax to the credit of the Central Government beyond a period of six months from the date on which such payment becomes due

In the above contraventions, director, manager, secretary or other officer of such company, who at the time of such contravention was in charge of, and was responsible to, the company for the conduct of business of such company and was knowingly concerned with such contravention, shall be liable to a penalty which may extend to Rs. 1 lakh.

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Insertion of section 90 – cognizable offence and non-cognizable offence

As per new section 90(1), if person Collects any amount as service tax but fails to pay the amount so collected to credit of Central government within 6 months from the date on which payments become due would be cognizable offence.

As per new section 90(2), all offences, except the offences specified above in section 90(1), would be non-cognizable and bailable subject to the code of criminal procedure, 1973 act.

Amendments in Central Excise tariff Act

First Schedule is being amended to:

- a. change the present description of tariff items 03022400 Turbots [(Psetta maxima, Scophthalmidae)] and 03033400 [Bigeye tunas (Thunnus obesus)] to "Turbots (Psetta maxima)".
- b. omit the tariff item 1517 90 20 (Peanut butter).
- c. substitute the existing tariff rates for various lengths of cigarettes and cigars of heading 2402 with the enhanced rates.
- d. enhance the tariff rate of specified tariff items of heading 8703 for Motor vehicles of engine capacity exceeding 1500 cc, popularly known as Sports Utility Vehicles (SUVs) including utility vehicles to 30%.

The changes to the above will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

Amendment in First schedule to the customs tariff act, 1975

The first schedule has been amended to

- (a) change the present description of tariff item 03022400 Turbots [(Psetta maxima, Scophthalmidae)] and 03033400 [Bigeye tunas (Thunnus obesus)] to "Turbots (Psetta maxima)"
- (b) omit the tariff item 1517 90 20 (Peanut butter).
- (c) enhance the tariff rate against items under heading 8703 [motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 8702), including station wagons and racing cars] from 100% to 125%.
- (d) enhance the tariff rate against items under heading 8903 [yachts and other vessels for pleasure or sports; rowing boats and canoes] from 10% to 25%

a) Second schedule to the customs tariff act, 1975

- (a) to substitute the entry in column (2) against Sl. No. 43, with the entry "7210, 7212" - flat rolled products of iron or non-alloy steel, plated or coated with zinc falling, retrospectively with effect from 01.03.2011.
- (b) Entry 9A is being inserted to prescribe a tariff rate of export duty of 20% on raw sugar, white or refined sugar under heading 1701. However, no export duty is proposed to be levied presently.
- (c) Entries 23A and 23B are being inserted to prescribe a tariff rate of export duty of 30% on Bauxite (natural), not calcined and Bauxite (natural), calcined under heading tariff items 26060010 and 26060020 respectively. Effective rate is being prescribed at 10%
- (d) Entries 24A and 24B are being inserted to prescribe a tariff rate of export duty of 30% on ilmenite, unprocessed and ilmenite, upgraded (beneficiated ilmenite including ilmenite ground) under heading tariff items 26140010 and 26140020 respectively. Effective rate is being prescribed on unprocessed ilmenite at 10% and on upgraded ilmenite at 5%.

b) Amendment to the customs rules

Baggage rules, 1988

Baggage Rules are being amended to,-

- (i) raise the duty free allowance in respect of jewellery for an Indian passenger who has been residing abroad for over one year or a person who is transferring his residence to India from Rs.10,000 to Rs.50,000 in case of a gentleman passenger and from Rs.20,000 to Rs.1,00,000 in case of a lady passenger.
- (ii) raise the duty free allowance for crew member of vessel/aircraft from Rs.600 to Rs.1500.

Proposals involving changes in rates of custom duty

I. Agriculture /Agro processing / plantation sector:

1. Basic customs duty on dehulled oat grain is being reduced from 30% to 15%.
2. Basic customs duty on hazel nuts is being reduced from 30% to 10%.
3. Export duty of 10% on de-oiled rice bran oil cake is being withdrawn.

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II. Automobiles:

- 1) Basic customs duty on new passenger cars and other motor vehicles (high end cars) with CIF value more than US\$ 40,000 and/or engine capacity exceeding 3000cc for petrol run vehicles and exceeding 2500 cc for diesel run vehicles is being increased from 75% to 100%.
- 2) Basic customs duty on motor cycle with engine capacity of 800cc or more is being increased from 60% to 75%.

III. Metals:

- 1) Export duty is being levied on ilmenite unprocessed at 10% and on ilmenite upgraded at 5%.
- 2) Export duty is being levied on bauxite at 10%.
- 3) Basic customs duty is being reduced from 10% to 5% on stainless steel wire cloth stripe and from 7.5% to 5% on wash coat for use in the manufacture of catalytic convertors and their parts.
- 4) Full exemption from export duty is being provided to galvanized steel sheets falling under certain sub-headings, retrospectively w.e.f. 01.03.2011.

IV. Precious metals:

Basic customs duty is being reduced from 10% to 2% on pre-forms of precious and semi-precious stones.

V. Capital goods/ infrastructure:

1. Basic customs duty on steam coal is being increased from Nil to 2% and CVD from 1% to 2%.
2. Basic customs duty on bituminous coal is being reduced from 5% to 2% and CVD from 6% to 2%.
3. Basic customs duty is being reduced from 7.5% to 5% on 20 specified machinery for use in leather and footwear industry.

VI. Aircrafts & ships:

1. Basic Customs Duty on yachts and motor boats is being increased from 10% to 25%.
2. Time limit for consumption of imported goods by ship repair units is being extended from 3 months to 1 year.
3. Time period for consumption/installation of parts and testing equipments imported for maintenance, repair and overhaul (MRO) of aircrafts by units engaged in such activities is being extended from 3 months to 1 year.

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4. Presently, the basic customs duty exemption is available to parts and testing equipments for maintenance, repair and overhaul of aircrafts. This exemption is now being extended to parts and testing equipments for maintenance, repair and overhaul of aircrafts and parts thereof.

VII. Environment protection:

- 1) Full exemption from basic customs duty is being provided to lithium ion automotive battery for manufacture of lithium ion battery packs for supply to the manufacturers of hybrid and electric vehicles.
- 2) Time period of exemption (Nil Basic Custom Duty, Counter Veiling Duty of 6% and Nil Special Additional Duty) for the specified parts of electric and hybrid vehicles is being extended by 2 more years up to 31st March, 2015.

VIII. Textiles:

- 1) Basic customs duty on raw silk (not thrown), of all grades is being increased from 5% to 15%.
- 2) Basic customs duty is being reduced from 7.5% to 5% on textile machinery & parts.

IX. Electronics/ hardware:

Basic customs duty on Set Top Boxes for TV is being increased from 5% to 10%.

X. Miscellaneous:

- 1) Full exemption from basic customs duty and additional customs duty is being provided to trophy imported by National Sports Federation recognized by the Department of Sports and Youth Affairs or any Sports Body registered under Societies Registration Act, in connection with any international tournament held in India.
- 2) Withdrawal of exemption from education cess and secondary & higher education cess on aircraft and aircraft parts, soyabean oil, olive oil etc.

=====END=====