An outlook THE FINANCE BILL 2013

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Important Definitions :

Gross Domestic Product (GDP) : Gross domestic product (GDP) is the market value of all officially recognized final goods and services produced within a country in a given period of time. GDP can be determined in three ways, all of which should, in principle, give the same result. They are the product (or output) approach, the income approach, and the expenditure approach.

The most direct of the three is the *product approach,* which sums the outputs of every class of enterprise to arrive at the total. The *expenditure approach* works on the principle that all of the product must be bought by somebody, therefore the value of the total product must be equal to people's total expenditures in buying things. The *income approach* works on the principle that the incomes of the productive factors ("producers," colloquially) must be equal to the value of their product, and determines GDP by finding the sum of all producers' incomes.

GDP Rate : The GDP Rate is the percentage increase or decrease of GDP from the previous measurement cycle, usually a year , half year or a quarter. The GDP growth rate is driven by the four components of GDP, viz., personal consumption, retail sales, Government spending, exports and imports. The GDP growth rate is the most important indicator of economic health.

Plan Expenditure: Government Expenditure is divided into Plan and Non-Plan expenditure. 'Plan' in this context indicates what is covered in the Five-Year Plan. It can be divided into revenue account and capital account - that is, simply, expenditure that gets consumed and one that creates some productive assets.

Non Plan Expenditure: Non-plan does not mean that the expenditure is unplanned. Non-Plan expenditure covers defence expenditure, interest payments and subsidies and grants to states, and basically all the stuff that needs to sustain the country.

Fiscal Deficit: The difference between total revenue and total expenditure of the government is termed as fiscal deficit. It is an indication of the total borrowings needed by the government. While calculating the total revenue, borrowings are not included. Generally fiscal deficit takes place due to either revenue deficit or a major hike in capital expenditure. Capital expenditure is incurred to create long-term assets such as factories, buildings and other development. A deficit is usually financed through borrowing from either the central bank of the country or raising money from capital markets by issuing different instruments like treasury bills and bonds.

Budgetary Deficit: Budgetary deficit is the difference between all receipts and expenditure of the government, both revenue and capital.

The fiscal deficit equals budgetary deficit plus government market borrowings and liabilities.

Revenue Deficit: Revenue deficit is an economic phenomenon, where the net amount received (revenues less expenditures) falls short of the projected net amount to be received. Revenue deficit arises when the government's actual net receipts is lower than the projected receipts.

Balance of Payment (BoP) : Balance of payments (BOP) sheet is an accounting record of all monetary transactions between a country and the rest of the world. These transactions include payments for the country's exports and imports of goods, services, and financial capital, as well as financial transfers. The BOP summarizes international transactions for a specific period, usually a year, and is prepared in a single currency, typically the domestic currency for the country concerned. Sources of funds for a nation, such as exports or the receipts of loans and investments, are recorded as positive or surplus items. Uses of funds, such as for imports or to invest in foreign countries, are recorded as negative or deficit items.

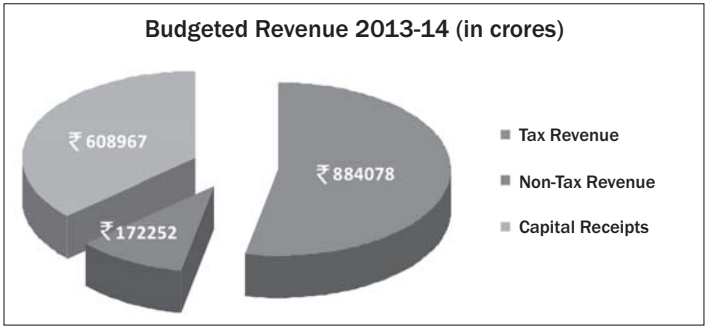
Balance of Trade(BoT): The balance of trade (or net exports, sometimes symbolized as NX) is the difference between the monetary value of exports and imports of output in an economy over a certain period. It is the relationship between a nation's imports and exports. A positive balance is known as a trade surplus if it consists of exporting more than is imported; a negative balance is referred to as a trade deficit or, informally, a trade gap. The balance of trade is sometimes divided into a goods and a services balance. Balance of trade is the largest component of a country's balance of payments.

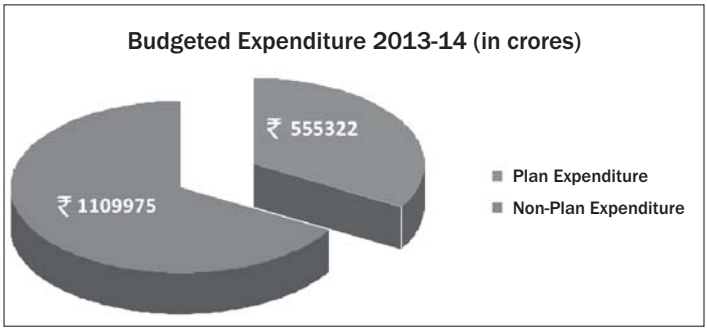
An outlook

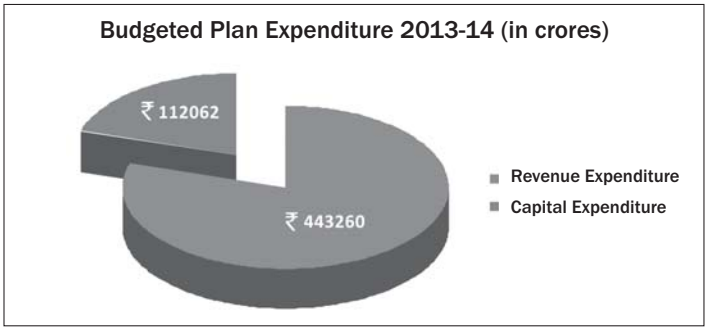
THE FINANCE BILL 2013

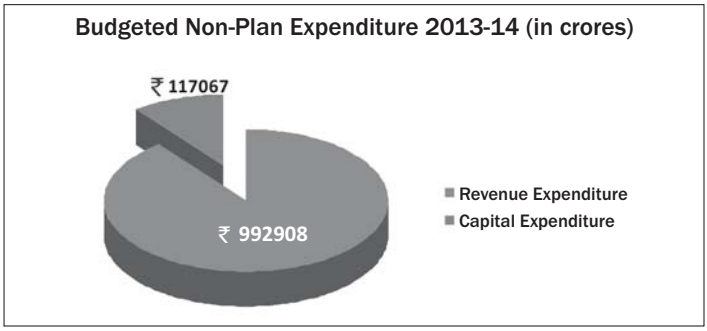
Budget on your palms

Income and Expenditure of Government









Preface

Budget in your palms is a mini source-book depicting the ground plan of Finance Minister of the 10th largest economy on the globe for the financial year 2013-14. The FM's budget plan includes provisions as well as promises, which if, converted into solid Acts of parliament, will provide a clear pathway for the challenging future.

21st century accountancy professional is a complete solution provider. At the same time, the solution seekers of this century are, knowledge-savvy business-citizens. They both demand first-hand information presented in a concise fashion. This booklet is an attempt to layout the budget provisions for the citizens from both the realms who would like to grasp only those threads that lead to the budget provisions relevant to their financial life.

Kautilya, the arthashastra Guru said, "Governments should collect taxes like a honeybee, which sucks just the right amount of honey from the flower so that both can survive. Taxes should be collected in small and not in large proportions".

When the Finance Minister rises to present the budget, the entire nation sits on the edge of chair with mixed emotions and expectations galore!!! As the FM rolls out his proposals to the house, the nation prays for the wisdom of Kautilya to prevail upon the FM. The TV channels telecast the impact of the budget on capital markets and the experts provide precious pearls of analytical wisdom to the national media as soon as the FM completes his presentation.

Instead of wading through the jargon and statements clogging the mail-boxes in the days succeeding the budget, a professional and a business citizen today is more inclined towards reading it all in fine print and taking strides in the right direction to protect and promote their financial interests. The mini referencer in your hands is like a pencil- torch which flashes light on various provisions instantaneously.

We cannot undermine the relevance of focus on whether the finance minister has tried to balance his books without compromising political compulsions or whether the roadmap given by the finance minister is creative, reformist and growth oriented but the attempt to educate and provide first-cut of the budget is equally important.

FM has made the right choices on increasing the social expenditure to the marginalized sections of women and children, while trying to encourage investments through policy debottlenecking and all along keeping a strict fiscal regime.

The budget may or may not contain the silver lining for citizens of India, it may or may not have delivered the magic bullet for capital markets and it may have just about met people's expectations but not their aspirations. A quick perusal of all the provisions will certainly allow the reader to determine how these will be translated into a concrete outcome.

It is said, "Easy reading is damn hard writing" and this mini bank of FM's words is an attempt to crystallize the provisions of budget for the reader.

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Budget 2013 – Highlights

Budget Estimates

- Plan expenditure is placed at Rs. 5,55,322 crore
- Non-Plan expenditure is estimated at Rs. 11,09,975 crore
- Fiscal deficit for the current year at 5.2 per cent and for the year 2013- 14 at 4.8 per cent
- Revenue deficit for the current year at 3.9 per cent and for the year 2013-14 at 3.3 per cent
- By 2016-17 fiscal deficit to be brought down to 3 per cent, revenue deficit to 1.5 per cent and effective revenue deficit to zero per cent

Income Tax

- Basic exemption limit, income-tax rates and income slab limits for individuals remain unchanged
- Tax rebate of Rs. 2,000 for resident individuals with total income up to Rs. 500,000
- Rates of corporate tax remain unchanged for both domestic and foreign companies
- Keyman insurance policy assigned to any person with or without consideration during its term to be now treated as keyman insurance policy not eligible for exemption
- In respect of transfer of land and building held as stock-in- trade, if consideration is less than the assessed stamp duty value, then valuation as per stamp duty will be deemed to be the full value of consideration taxable as business income
- Sunset clause for commencement of business for claiming tax holiday in power sector extended from 31 March 2013 to 31 March 2014
- To propel growth in the manufacturing sector, investment based deduction has been introduced on acquisition and installation of new assets from 1 April 2013 to 31 March 2015.
- Income earned by specified securitisation trusts will be exempt
- Securitization trusts distributing income to its investors (other than those exempt from tax) will be liable to pay tax on income distribution
- Income received by an investor from securitization trust will be exempt from tax
- Tax of 20% introduced on distributed income on buy back of shares by an unlisted domestic company. Consequently, such income shall be exempt in the hands of the shareholder
- Receipt of immovable property by an individual or HUF for a consideration which is less than stamp duty value of the property by more than Rs. 50,000, will be taxable as income from other sources on the stamp duty value in excess of the consideration

- Definition of "capital asset" amended with regard to the criteria for including agricultural land. Similar amendment has also been made in the definition of "urban land" under the Wealth-tax Act
- Tax Residency Certificate is no longer sufficient for claiming benefit under DTAA
- GAAR provisions deferred till 2016, and a number of recommendations of Shome Committee proposed to be enacted
- CTT to be levied at 0.01% on sale of commodity (other than agricultural commodities) derivatives
- Additional deduction of interest up to Rs. 100,000 for home buyers who does not own a house in respect of home loans taken from financial institutions
- Investment in listed units of equity oriented funds now eligible for deduction under section 80CCG
- Donations made to National Children's Fund eligible for 100% deduction
- No deduction allowed for cash contributions by an Indian company or any person (other than a local authority or any artificial juridical person wholly or partially funded by the Government) to any political party or an electoral trust
- A return of income shall be regarded as a defective return unless self-assessment tax is paid
- Provisions introduced for withholding tax at 1% on transfer of immovable properties (other than agricultural land) where consideration is Rs. 50 lacs or more
- Applicability of concessional tax rate of 15% on gross dividends received by an Indian company from a specified foreign company extended up to 31 March 2014
- Indian companies permitted to reduce dividends received from foreign subsidiaries and subject to tax under the prescribed section of the Income-tax Act, while computing DDT payable on dividends declared, distributed or paid

Indirect taxes

Service Tax

- No change in effective service tax rate of 12%
- Service tax is enhanced from 3.09 % to 3.708 %, in case of construction of residential unit having carpet area more than 2000 square feet or value Rs. 1.00 crore or more
- Services by restaurants having facility of air-conditioning and auxiliary educational services or renting of immovable property services by educational institution made liable to service tax
- Amnesty scheme, i.e. Service Tax Voluntary Compliance Encouragement Scheme, 2013 introduced to recover unpaid taxes for the period October 2007 to December 2012
- Advance ruling can now be obtained by resident public limited companies
- More stringent penalties to apply for offences liable for prosecution

Customs

- Peak rate of BCD remains unchanged at 10%
- Interest free period for payment of duty reduced to two days from the date of bill of entry returned after assessment
- Introduction of specific provisions permitting filing of import and export manifest electronically
- Advance ruling can now be obtained related to any new line of business of import and export proposed to be undertaken by an importer or exporter
- Stay order shall stand vacated, if the appeal is not disposed off within the total time period of 365 days
- Certain specified offences are now treated as cognizable and non bailable

Excise

- No change in the basic excise duty rate of 12%
- Stay order shall stand vacated, if the appeal is not disposed of within a total period of 365 days
- Advance ruling can now be obtained for a new line of business and question on admissibility of credit of service tax paid on input services. The same may now be obtained by resident public limited companies and deemed public limited companies also
- Specified offences are now treated as cognizable and non bailable

CST

- No change in CST rate

GST

- A sum of Rs. 9,000 crores towards the first instalment of the balance of CST compensation provided in the budget to pave way for Goods and Services Tax (GST)
- Work on draft GST constitutional amendment bill and GST law expected to be taken forward– no definitive timeline proposed for introduction

Income Tax

Rates of tax for the Assessment Year 2014-15 (Financial Year 2013-14)

Chart - 1 : Income Tax rates

Individual*

Net taxable income	All resident	Resident senior citizen	
	Individual, HUF, BOI, AOP	At the age of ≥ 60 & < 80	At the age of ≥ 80 and above
Up to Rs. 200000	Nil	Nil	Nil
Rs. 200001 to Rs. 250000	10%	Nil	Nil
Rs. 250001 to Rs. 500000	10%	10%	Nil
Rs. 500001 to Rs. 1000000	20%	20%	20%
Rs. 1000001 or above**	30%	30%	30%

Tax credit is given @ 100% of tax payable or Rs. 2,000/- whichever is less to resident individuals whose total income does not exceed Rs. 5 lacs.

Firm* [including Limited Liability Partnership (LLP), Local Authority]

Tax Rate: 30%

Co-operative Society*

Income	Rate
Up to Rs. 10000	10%
Rs. 10001 to Rs. 20000	20%
Above Rs. 20000**	30%

Alternate Minimum Tax for other than company is @18.5 %

Company*

Particulars	Domestic Company	Foreign Company
Taxable income up to Rs. 1 crore	30%	40%
Taxable income above Rs. 1 crore** upto Rs.10 crores	30%	40%
Taxable income above Rs.10 crores**	30%	40%
Minimum Alternate Tax u/s 115JB**	18.5%	18.5%

*In all the above cases, Cess (Education & Secondary Education)@3% is applicable

** Surcharge :

For non-corporate assessees	:	@10% if taxable income exceeds Rs. 1 crore
For domestic companies	:	@5% if taxable income exceeds Rs. 1 crore upto Rs.10 crores and @ 10% if taxable income exceeds Rs.10 crores
For foreign companies	:	@2% if taxable income exceeds Rs. 1 crore upto Rs.10 crores and @ 5% if taxable income exceeds Rs.10 crores

Chart - 2 : Other Direct Tax rate

Wealth Tax

Threshold limit	Rate
Rs. 30 lacs (for Individual, HUF and Company)	1%

Tax on Long Term Capital Gain (LTCG) & Short Term Capital Gain (STCG)

Particulars	STCG		LTCG
	Listed securities	On assets other than listed securities	On assets other than listed securities
All assesses	15%	*** see note below	20%

***note

Particulars	STCG on assets other than listed securities
Individual, HUF, BOI, AOP	As per slab
Partnership firm	30%
Domestic company	30%
Company other than domestic company	40%

Dividend Distribution Tax

Particulars	Rate (excluding Surcharge & Cess)			
	Domestic company	Money market mutual or liquid fund*	Other mutual fund	Securit-isation trust
Income distributed to individual /HUF	15%	25%	25%	25%
Income distributed to others	15%	30%	30%	30%
Withholding tax on profits distributed by unlisted companied to shareholders through buyback of shares.	20%	N.A.	N.A.	N.A.

*Where any income is distributed by a mutual fund under an infrastructure debt fund scheme to a non-resident (not being a company) or a foreign company, the mutual fund shall be liable to pay additional income-tax at the rate of 5% on income so distributed.

Note: Surcharge on Dividend Distribution Tax increased from 5% to 10%.

Exemptions :

A) In respect of any income distributed :

1) by the administrator of specified undertaking, to the unit holders; or

2) to a unit holder of an equity oriented fund in respect of any distribution made from such fund

B) In respect of any income distributed by the securitization trust to any person in whose case income, irrespective of its nature and source, is not chargeable to tax under the Act.

Securities Transaction Tax

Particulars		Rate (%)
(I)	Delivery based purchase of units of an equity oriented fund entered into in a recognized stock exchange	Nil
(ii)	Delivery based sale of units of an equity oriented fund entered into in a recognized stock exchange	0.001
(iii)	Delivery based purchase or sale of Equity Shares/Unit of equity oriented fund (other than in [(I) & (ii)] above)	0.100
(iv)	Non Delivery based sale of Equity Shares/Units of equity oriented funds	0.025
(v)	Sale of a unit of an equity oriented fund to the mutual fund	0.001
(vi)	Sale of an option securities	0.017
(vii)	Sale of an option securities, where option is exercised	0.125
(viii)	Sale of a Future in securities	0.01

Commodities Transaction Tax

Particulars	Rate (%)
Non-agricultural commodities future contracts (payable by seller)	0.01

Chart -3 : Tax Deducted at Source (TDS) rates

Section	Nature of payments	Threshold limit	HUF, Individual	Company, Firm, Co-op Soc., Local Authority
			Rates in (%)	
192	Salary	As per slab	Normal Rate	N.A.
193	Interest on debentures	5,000	10	10
194	Deemed dividend	2,500 (only in case shareholder is an individual, otherwise Nil)	10	10
194A	Interest from bank	10,000	10	10
194A	Other interest	5,000	10	10
194B	Winning from lotteries	10,000	30	30
194BB	Winning from horse races	5,000	30	30
194C	Payment to contractors, advertisers/ sub-contractors	30,000 (75,000 in year)	1	2
194D	Insurance commission	20,000	10	10
194H	Commission/brokerage	5,000	10	10
194I	Rent-property	1,80,000	10	10
194I	Rent-plant / machinery	1,80,000	2	2
194IA	Consideration for transfer of an immovable property to residents (other than agricultural income)	49,99,999	1	1
194J	Professional fees	30,000	10	10
194LA	Compensation to resident on acquisition of immovable property	2,00,000	10	10
194LB	Interest paid to Non-resident by Notified Infrastructure Debt	-	5	5
194LC	Payment of interest to a non-resident (not being a company) by a specified company on borrowings between 01.07.2012 to 30.6.2015	-	5	5
195	Payment of other sums to a non-resident (Other than section 194LB)	Rate specified under Part II of First Schedule of the Bill, subject to DTAA		

Notes:

- For TDS under Section 194C, limit for non-deduction is, Rs. 30,000/- for single payment and Rs. 75,000/- for aggregate payment during a financial year.
- TDS under Section 194C is not applicable, if PAN is provided by the transporter.
- Surcharge and Cess is not applicable on TDS from 01-04-2009 on any payment made to resident except on deduction under Section 192.
- TDS is attracted @20%, if PAN is not provided by the deductee.

Tax Collection at Source rates

Nature of transaction	Rates (in %)
Scrap	1
Tendu leaves	5
Timber obtained by any mode and any other forest produce	2.5
Alcoholic liquor for human consumption and Indian made foreign liquor	1
Parking plot, toll plaza, mining and quarrying	2
Bullion and jewellery (if the sale consideration is paid in cash exceeding Rs. 5 lacs in jewellery & Rs. 2 lacs in bullion)	1
Minerals being coal, lignite or iron ore	1

Taxation of Individuals

Keyman insurance to include policy taken during term of employment

Section 10(10D) exempts any sum received under the life insurance policy other than an insurance policy. The proposed amendment provides that a keyman insurance policy which has been assigned to a person during his term with or without consideration shall be continued to be treated as keyman insurance policy for the purposes of Section 10(10D). This amendment has nullified the belief of the assessee that since keyman insurance policy has been assigned to the person himself during the term of his employment it no longer remains a keyman insurance policy and therefore the repayment thereof should get exemption under Section 10(10D). Since expenditure on keyman insurance policy is allowable business expenditure in the hands of payer firm/ company read with Section 28(ii) clause vi, it is now proposed to introduce the amendment so as not to allow exemption, in the hands of employee, on receipt of surrender value of policy even if such policy has been assigned to the person on whose life such policy was taken by the firm/company.

Cap on insurance premium increased to 15% for disabled persons

Under the existing provisions, any sum received under life insurance policy including bonus thereon will be exempt provided premium paid for such policy does not exceed 10% of actual capital sum assured. Finance Bill 2013, proposes a higher limit of 15% of policies on the life of a (i) person with disability or severe disability of the nature described in Section 80U (ii) person suffering from the disease/ailment described in the Rules/Section 80DDB. Accordingly Sub-section (3A) of Section 80C is amended and provides that the deduction under the said Section on account

of premium paid in respect of a policy issued on or after 01.04.2013 for insurance on the life of a person referred to above shall be allowed to the extent the premium paid does not exceed 15% of the actual capital sum assured.

Additional tax relief

Finance Bill has proposed to provide rebate under Section 87A from the tax payable by an assessee who are in lower income bracket, being an individual resident in India, whose total income does not exceed five lacs rupees. The rebate shall be equal to the amount of income-tax payable on the total income for any assessment year or an amount of two thousand rupees, whichever is less. Therefore now any individual having income up to Rs. 2,20,000 will not be required to pay any tax.

Deduction in respect of interest on loan sanctioned during financial year 2013-14 for acquiring residential house property

To Promote the scheme of affordable housing, an additional benefit for first home buyers is proposed providing an additional benefit in respect of interest on loan taken for residential house property.

Section 80EE has been inserted which provides that the deduction under the proposed Section shall not exceed one lac rupees and shall be allowed in computing the total income of the individual for the assessment year beginning on 1st April, 2014. Further if the interest payable for the previous year relevant to the said assessment year is less than one lac rupees, the balance amount shall be allowed in the assessment year beginning on 1st April, 2015. However the benefit under this Section is available subject to fulfilment of all the following conditions:

(i) the loan is sanctioned by the financial institution during the period beginning on 1st April, 2013 and ending on 31st March, 2014,

(ii) the amount of loan sanctioned for acquisition of the residential house property does not exceed twenty-five lacs rupees,

(iii) the value of the residential house property does not exceed forty lacs rupees,

(iv) the assessee does not own any residential house property on the date of sanction of the loan.

It is also provided that where a deduction under this Section is allowed for any assessment year, in respect of interest referred to in Sub-Section (1), deduction shall not be allowed in respect of such interest under any other provisions of the Income-tax Act for the same or any other assessment year.

Liberalisation of Rajiv Gandhi Equity Saving Scheme (RGESS)

Under Section 80CCG, a resident individual who has acquired listed equity shares in accordance with the scheme notified by the Central Government, shall be allowed a deduction of fifty per cent of the amount invested in such equity shares to the extent that the said deduction does not exceed twenty five thousand rupees. The deduction is a one-time deduction and is available only in one assessment year in respect of the amount so invested. The deduction is available to a new retail investor whose gross total income does not exceed ten lac rupees. RGESS has been notified under Section 80CCG.

The Finance Bill has liberalized this incentive scheme to lure more investors and provides that investment in listed units of an equity oriented fund shall also be eligible for deduction in accordance with the provisions of Section 80CCG. It is

proposed to provide that "equity oriented fund" shall have the meaning assigned to it in Clause (38) of Section 10.

Now the investor with an income up to Rs. 12.00 lacs can invest their money in RGESS up to Rs. 50,000 p.a. and they can reap the tax benefits for three years up to Rs. 25,000 p.a.

Horizon of health schemes widened

Under the existing Act, the whole of the amount paid by the assessee to effect or to keep in force an insurance on his health or the health of the family or any contribution made towards the Central Government Health Scheme (CGHS) or any payment made on account of preventive health check-up of the assessee or his family, as does not exceed in the aggregate fifteen thousand rupees, is allowed to be deducted in computing the total income of the assessee under Section 80D.

It has been noticed that there are other health schemes of the Central and State Governments, which are similar to the CGHS but no deduction for such schemes is available to the subscribers of such schemes. In order to bring such schemes at par with the CGHS, it is proposed to amend Section 80D, so as to allow the benefit of deduction under this Section within the said limit, in respect of any payment or contribution made by the assessee to such other health scheme as may be notified by the Central Government.

Corporate Taxation

Incentive for large capital intensive industry

Finance Minister has introduced Section 32AC for companies engaged in manufacturing or production of any article or thing. The benefit is available in the form of deduction @15% for investment in new plant and machinery. The salient features of the investment linked deduction are as follows:

(a) The Company is engaged in the manufacturing of any article or thing

(b) The new assets are acquired or installed during the eligible period i.e between 1st April 2013 and 31st March 2015.

(c) The aggregate amount of cost of new assets acquired and installed during the eligible period exceeds 100 crore.

(d) Deduction would be allowed @15% of actual cost of new assets acquired and installed during the eligible period.

The deduction would be available from the financial year in which the aggregate cost of new assets acquired exceeds Rs. 100 crore. In case of financial year 2014-2015, deduction will be available for the cost of new assets acquired and installed during the eligible period as reduced by deduction, if any, allowed in respect of the new assets acquired during the financial 2013-2014.

The phrase "new asset" has been defined as new plant or machinery but does not include—

(I) any plant or machinery which before its installation by the assessee was used either within or outside India by any other person;

(ii) any plant or machinery installed in any office premises or any residential

accommodation, including accommodation in the nature of a guest house;

(iii) any office appliances including computers or computer software;

(iv) any vehicle;

(v) ship or aircraft; or

(vi) any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "profits and gains of business or profession" of any previous year.

It is further proposed to provide suitable safeguards so as to restrict the transfer of the plant or machinery for a period of 5 years. However, this restriction shall not apply in a case of amalgamation or demerger but shall continue to apply to the amalgamated company or resulting company, as the case may be.

Extension of the sunset date under Section 80IA for the power sector

The time limit mentioned under Clause (iv) of Sub-Section (4) of Section 80IA, for undertaking engaged in generation of power, transmission or distribution, or substantial renovation and modernisation of the existing network of transmission or distribution is extended by a further period of one year i.e. up to 31st March, 2014.

Retrospective amendment widening the definition of advances given by bank for computing bad debts from 1st April, 2013.

In order to clarify the scope and applicability of provisions of Clause (vii), (viia) of Sub-Section (1) and Sub-Section (2), it is proposed to insert an Explanation in Clause (vii) of Section 36(1) stating the amount of deduction in respect of the bad debts actually written off under Section 36(1)(vii) shall be limited to the amount by which such bad debts exceeds the credit balance in the provision for bad and doubtful debts account made under Section 36(1)(viia) without any distinction between rural advances and other advances.

Deduction for additional wages in certain cases

The tax incentive under Section 80JJAA was intended for employment of blue collared employees in the manufacturing sector whereas in practice, it is being claimed for other employees in other sectors also. Therefore the amended provision provides that the deduction shall be available to an Indian company deriving profits from manufacture of goods in its factory. The deduction shall be of an amount equal to thirty per cent of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

It is also proposed to provide that the deduction under this Section shall not be available if the factory is hived off or transferred from another existing entity or acquired by the assessee company as a result of amalgamation with another company.

Liability in case of 'buy-back' shifted from shareholders to company being an unlisted company

Section 115QA provides exemption in respect of any income arising to an assessee

being a shareholder on account of buyback of shares of unlisted company.

Any income distributed to a shareholder by an unlisted domestic company on buyback of shares shall be chargeable @20% on the distributed income. The distributed income means the consideration paid by the company on buyback of shares as reduced by the amount received by the company for issue of shares. The additional tax would be in addition to normal tax on its declared/assessed income. And it is also irrespective of whether any income tax is payable by the company or not. It is also provided that no credit or deduction or allowance of such additional tax will be provided.

A combined reading of the two provisions that is Section 115QA and Section 10(34A) indicates that once company is charged for the difference between buyback and issue price of the shares than shareholders will not be charged for any income arising from sale of the shares to the company by way of buyback.

On failure to pay the whole or any part of the tax on the distributed income, the company shall be liable to pay simple interest at the rate of one per cent for every month or part thereof on the amount of such tax for the period beginning on the date immediately after the last date on which such tax was payable and ending with the date on which the tax is actually paid.

Lower rate of tax on dividends received from foreign companies

The proposed amendment in Section 115BBD continues the tax incentive for one more year on income by way of dividends received from a specified foreign company in Financial Year 2013-14 also, subject to the same conditions.

Removal of the cascading effect of Dividend Distribution Tax (DDT)

Section 115-O provides that the tax base for DDT (i.e. the dividend payable in case of a company) is to be reduced by an amount of dividend received from its subsidiary if such subsidiary has paid the DDT which is payable on such dividend . This ensured removal of cascading effect of DDT in a multi-tier structure where dividend received by a domestic company from its subsidiary (which is also a domestic company) is distributed to its shareholders.

It is proposed to amend Section 115-O in order to remove the cascading effect in respect of dividends received by a domestic company from a similarly placed foreign subsidiary (ie the foreign company in which domestic company holds more than fifty percent of equity share capital). It is proposed that where the tax on dividends received from the foreign subsidiary is payable under Section 115BBD by the holding domestic company, then any dividend distributed by the holding company in the same year, to the extent of such dividends, shall not be subject to Dividend Distribution Tax under Section 115-O of the Income-tax Act.

Other amendments

Commodities Transaction Tax

A new tax called Commodities Transaction Tax (CTT) is proposed to be levied on taxable commodities transactions entered into in a recognised association. It is proposed to define 'taxable commodities transaction' to mean a transaction of sale of commodity derivatives in respect of commodities, other than agricultural commodities, traded in recognised associations. The tax is proposed to be collected

@ 0.01% by seller. Further, it is further provided that an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year shall be allowable as deduction, if the income arising from such taxable commodities transactions is included in the income computed under the head "profits and gains of business or profession".

Disallowance of certain fee, charge, etc. in the case of State Government Undertakings

In order to protect the tax base of State Government undertakings vis-à-vis exclusive levy of fee, charge, etc. or appropriation of amount by the State Governments from its undertakings, it is proposed to amend Section 40 of the Income-tax Act to provide that any amount paid by way of fee, charge, etc., which is levied exclusively on, or any amount appropriated, directly or indirectly, from a State Government undertaking, by the State Government, shall not be allowed as deduction for the purposes of computation of income of such undertakings under the head "profits and gains of business or profession". It is also proposed to define the expression "State Government Undertaking" for this purpose.

Extension of application of Section 50C to stock in trade

A new Section 43CA provides that the apparent sale considerations arising on account of transfer of an asset being land or building or both (not being a capital asset) shall be the value as per the stamp valuation authorities. This provision is similar to Section 50C which is applicable only in respect of transfer of capital asset. The provisions contained in Section 50C could not have been applied to transfer of land or building or both which are stock in trade. This view has been held in several cases such as:

(1) CIT v. M/S Kan Construction and Colonizers (P) Ltd [2012] 20 Taxmann.com 381 (Allahabad)

(2) K.R. Palanisamy v. Union of India [2009] 180 Taxmann 253 (Mad.)

(3) Asst CIT v. Excellent Land Developers (P.) Ltd. [2010] 1 ITR (TRIB.) 563 (Delhi)

Till now the valuation done by stamp valuation authorities are not extended to stock in trade. However by insertion of aforesaid Section if the land or buildings or both are sold by builders and developers which are their business activity, and their 'stock-in-trade', will be subject to valuation as per the stamp duty valuation. Further it has been provided in Section 43CA that where the date of agreement and the date of registration of transfer of asset are not the same, the value on the date of agreement shall be considered only when the amount of consideration or a part thereof has been received by any mode other than cash on or before the date of agreement for transfer.

Taxability of immovable property received for inadequate consideration

The existing provisions of Sub-clause (b) of Clause (vii) of Sub-Section (2) of Section 56 of the Income-tax Act, inter alia, provide that where any immovable property is received by an individual or HUF without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property would be charged to tax in the hands of the individual or HUF as income from other sources.

The existing provision does not cover a situation where the immovable property has been received by an individual or HUF for inadequate consideration. It is proposed to amend the provisions of Clause (vii) of Sub-Section (2) of Section 56 so as to provide that where any immovable property is received for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration, shall be chargeable to tax in the hands of the individual or HUF as income from other sources.

Considering the fact that there may be a time gap between the date of agreement and the date of registration, it is proposed to provide that where the date of the agreement fixing the amount of consideration for the transfer of the immovable property and the date of registration are not the same, the stamp duty value may be taken as on the date of the agreement, instead of that on the date of registration. This exception shall, however, apply only in a case where the amount of consideration, or a part thereof, has been paid by any mode other than cash on or before the date of the agreement fixing the amount of consideration for the transfer of such immovable property.

Contribution to National Children Funds would fetch 100% deduction

Finance Bill, 2013 proposes 100% deduction under Section 80G, in case of donations made to the National Children's Fund by amending Clause (i) to existing Sub-Section (1) with effect from 1-04-2014 as against 50% deduction of amount donated.

Deduction on contribution made to Political party

Under the existing provisions of Section 80GGB & 80GGC, any sum contributed by an Indian company or by any person to any political party or an electoral trust in the previous year is allowed as deduction in computing the total income of such Indian company. In absence of specific mode of contribution under these Section, it is now clarified that deduction will be allowed if contribution is made other than in cash.

Clarification of the phrase “tax due” for the purposes of recovery in certain cases

Section 179 of the Income-tax Act provides that where the tax due from a private company cannot be recovered from such company, then the director (who was the director of such company during the previous year to which non-recovery relates) shall be jointly and severally liable for payment of such tax unless he proves that the non-recovery of tax cannot be attributed to any gross neglect, misfeasance or breach of duty on his part. This provision is intended to recover outstanding demand under the act of a private company from the directors of such company in certain cases. The Apex court had held in the case of Harshad Shantilal Mehta Vs. Custodian (1998, 231 ITR 871, SC) that the ‘tax due’ used in Section 179 does not include penalty, interest and other sum payable under the Act.

In view of the above, it is proposed to clarify that for the purposes of this Section, the expression “tax due” includes penalty, interest or any other sum payable under the Act. Amendment on the similar lines for clarifying the expression ‘tax due’ is proposed to be made to the provisions of Section 167C.

Widening of concessional rate of withholding tax on interest on foreign borrowings

The existing provisions of Section 194LC provide that if an Indian company borrows money in foreign currency from a source outside India either under a loan agreement or by way of issue of long-term infrastructure bonds, as approved by the Central Government, then the interest payment to a non-resident person would be subject to a concessional rate of tax @ 5%.

In order to facilitate subscription by a non-resident in the long term infrastructure bonds issued by an Indian company in India (rupee denominated bond), it is proposed to amend Section 194LC of the Income-tax Act so as to provide that where a non-resident deposits foreign currency in a designated bank account and such money as converted in rupees is utilised for subscription to a long-term infrastructure bond issue of an Indian company, then, for the purpose of this Section, the borrowing by the company shall be deemed to be in foreign currency. The benefit of reduced rate of tax would, therefore, be available to such non-resident in respect of the interest income arising on such subscription subject to other conditions provided in the Section.

The designated bank account should be solely for the purpose of deposit of money in foreign currency and such money is to be used, after conversion, for subscription to a rupee denominated long-term infrastructure bond issue of an Indian company.

Definition of agriculture land" linked with census

The existing definition provided that a land will not be called agricultural land if (i) it is situated in an area of municipality etc. having population not less than 10,000 according to last census or (ii) land situated in an area within the distance not exceeding 8 kilometres from the local limits of any municipality etc.

The proposed amendment provides that a land to be called agriculture land should not be situated (1) in an area within 2 kilometers of local limits of municipality etc., these 2 kilometers shall be measured aerially, and population of municipality etc. is more than 10,000 but not exceeding 1,00,000; or (2) such land should not be situated within 6 kilometers of the municipality having population of more than 1,00,00 but not more than 10 lacs or (3) such land should not be situated within 8 kilometers if population of municipality etc. is more than 10 lacs.

The definition is more liberalized and will provide benefit to those farmers whose land is near inhabited areas because of increase in population. It also accepts the courts view that distance should be measured aerially.

Clarification on recovery of existing liability under search proceedings

The legislative intent behind this provision is to ensure the recovery of outstanding tax/interest/penalty and also to provide for recovery of taxes/interest/penalty, which may arise subsequent to the assessment pursuant to search.

Accordingly, it is proposed to amend the aforesaid Section so as to clarify that the existing liability does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII of the Act.

Extended the scope of Defective Return

Where any tax is payable on the basis of any return, after taking into account the prepaid taxes, the assessee shall be liable to pay such tax together with interest payable under any provision of this Act for any delay in furnishing the return or any

default or delay in payment of advance tax, before furnishing the return.

As a preventive measure, it is proposed to amend the aforesaid Explanation so as to provide that 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.

Exclusion of time in computing the period of limitation for completion of assessments and reassessments

The existing provision does not provide for exclusion of time in cases where the direction of the Assessing Officer under Sub-Section (2A) of Section 142 is set aside by the court. Similarly, existing provision does not provide of time in cases where more than one reference for exchange of information is made in one case by an authority competent under an agreement referred to in Section 90 or Section 90A.

Considering the above, now It is proposed to amend Clause (iii) of Explanation 1 to Section 153 so as to provide that the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited under Sub-Section (2A) of Section 142 and ending with the last date on which the assessee is required to furnish a report of such audit under that Sub-Section; or where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Commissioner, shall be excluded in computing the period of limitation for the purposes of Section 153.

With a view to clarify the above situation, it is now proposed to amend the aforesaid Clause (viii) so as to provide that the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in Section 90 or Section 90A and ending with the date on which the information requested is last received by the Commissioner or a period of one year, whichever is less, shall be excluded in computing the period of limitation for the purposes of Section 153.

Similar amendments are also proposed in the Explanation to Section 153B of the Income-tax Act relating to time limit for completion of search assessment.

Penalty under Section 271FA for non-filing of Annual Information Return

A person who is required to furnish an annual information return, as required under Sub-section (1) of Section 285BA, fails to furnish such return within the time prescribed under Sub-section (2) thereof, the Income Tax authority prescribed under Sub-Section (1) of the said Section may direct that such person shall pay, by way of penalty, a sum of one hundred rupees for every day during which the failure continues.

It is further proposed to provide that where such person fails to furnish the return within the period specified in the notice under Sub-section (5) of Section 285BA, he shall pay, by way of penalty, a sum of five hundred rupees for every day during which the failure continues, beginning from the day immediately following the day on which the time specified in such notice for furnishing the return expires.

Direction for special audit under Sub-Section (2A) of Section 142

As per Section 142 (2A) of the Income-tax Act, Assessing Officer having regard to the nature and complexity of the accounts of the assessee and the interests of the revenue, is of the opinion that it is necessary so to do, he may, with the approval of

the Chief Commissioner or Commissioner, direct the assessee to get his accounts audited by an accountant and to furnish a report of such audit.

The expression "nature and complexity of the accounts" has been interpreted in a very restrictive manner by various courts.

It is therefore, proposed to amend the aforesaid Sub-Section so as to provide that if at any stage of the proceedings before him, the Assessing Officer, having regard to the nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialized nature of business activity of the assessee, and the interests of the revenue, is of the opinion that it is necessary so to do, he may, with the previous approval of the Chief Commissioner or the Commissioner, direct the assessee to get his accounts audited by an accountant and to furnish a report of such audit.

Tax Deduction at Source (TDS) on transfer of certain immovable properties (other than agricultural land)

Presently there is no such requirement of deduction of tax on transfer of immovable property by a resident except in the case of compulsory acquisition of certain immovable properties. In order to have a reporting mechanism of transactions in the real estate sector and also to collect tax at the earliest point of time, it is proposed to insert a new Section 194-IA to provide that every transferee, at the time of making payment or crediting of any sum as consideration for transfer of immovable property (other than agricultural land) to a resident transferor, shall deduct tax, at the rate of 1% of such sum where the aggregate sum of immovable property exceeds fifty lacs or more .

Tax Residency Certificate necessary but not sufficient

Section 90 and Section 90A of the Income Tax Act empowers the Central Government to enter into an agreement with the Government of any foreign country or specified territory outside India or specified associations for the purpose of (i) granting relief in respect of avoidance of double taxation, (ii) exchange of information and (iii) recovery of taxes.

Sub-Section (4) of Section 90 and Section 90A of the Income-tax Act inserted by Finance Act, 2012 makes submission of Tax Residency Certificate containing prescribed particulars, as a condition for availing benefits of the agreements referred to in these Sections.

Now It is proposed to amend Section 90 and Section 90A in order to provide that submission of a tax residency certificate is a necessary but not a sufficient condition for claiming benefits under the agreements referred to in Section 90 and Section 90A. The amendment has clearly gone against the rulling of Hon'ble Supreme Court in the case of Azadi Bachao wherein it was held that the tax residency certificate is sufficient to claim the tax treaty benefit.

Taxation of Income by way of Royalty or Fees for Technical Services

Tax rates applicable on Royalty or FTS earned by non-resident have been amendment as follows.

Description	Existing rate	Proposed rate
Royalty or FTS is received in pursuance of an agreement entered on or before 31.05.1997	30%	25%
Royalty or FTS is received in pursuance of an agreement entered after 31.05.1997 but before 01.06.2005	20%	25%
Royalty or FTS is received in pursuance of an agreement entered on or after 01.06.2005	10%	25%

However, this amendment will not impact tax rate as may be applicable under the relevant tax treaty.

Taxation of Securitisation Trusts : (Introduction of new Chapter XII-EA comprising Section 115TA, 115TB, 115TC of the IT Act read with Section 10(23DA), 10(35A):

- Securitization trust means " Special purpose vehicle" as defined under SEBI regulations, which means trust acquires debt or receivables out of funds mobilized by it by issuance of securitized debt instruments through one or more scheme.
- Income of securitization trust form the activity of securitization is exempt from tax.
- Chapter XII-EA has been introduced in the Income Tax Act, whereby, a securitization trust shall pay additional income tax at the following rate on any amount of income distributed by it to its investors:

a) 25% in case the amount is distributed to any person being an individual or HUF

b) 30% in other case

- No additional income tax is payable if the income distributed to a person who is not chargeable to tax under Income Tax Act.
- The income received by way of distribution by the investor from a securitization trust shall not form part of the total income of the investor.
- As per the proposed provision, only the income from securitization activity is exempt from tax.

Rationalisation of tax on income distributed by Mutual Funds

Description of fund	Person	Current additional tax rate	Proposed additional tax rate
Income distributed by a money market mutual fund or a liquid fund	Individual or HUF	25%	25%
Income distributed by a money market mutual fund or a liquid fund	Any other person	30%	30%

Description of fund	Person	Current additional tax rate	Proposed additional tax rate
Income distributed by a fund other than a money market mutual fund or a liquid fund	Individual or a Hindu undivided family	12.5%	25%
Income distributed by a mutual fund other than a money market mutual fund or a liquid fund	to any other person	30%	30%
Any income is distributed by a mutual fund under an infrastructure debt fund scheme	Non-resident (not being a company) or a foreign company	-	5%

Brief on amendments to GAAR (Chapter X-A)

The provisions of Chapter X-A which were introduced in the Finance Act, 2012 and Section 144BA have been thoroughly revamped in line with Shome Committee report and will now come into force with effect from 1 April 2016 as against the earlier communicated date of 1 April 2014.

The current provision of Section 96 has been amended to restrict the scope of Impermissible Avoidance Arrangement ('IAA'), to transactions where 'main purpose' is to obtain a tax benefit and the transactions are:

~ Not at arm's length; or

~ Results in abuse or misuse of provisions of income-tax law; or

~ Lacks commercial substance; or

~ Carried out in a manner not ordinarily employed for bona fide purpose.

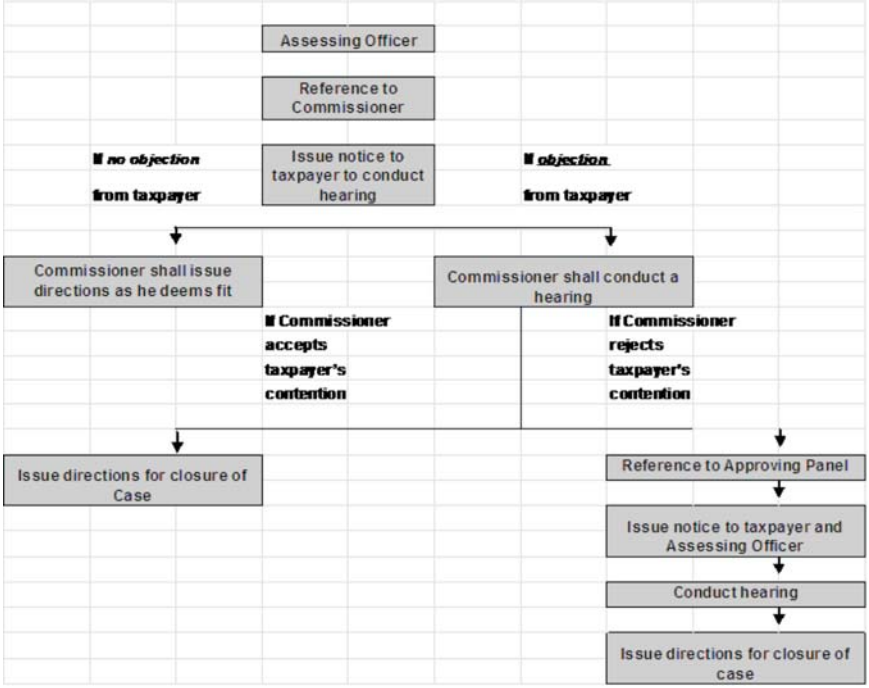
Further, a new Sub-section has been added which casts onus on taxpayer to prove that none of the steps in the transactions have main purpose of obtaining tax benefit failing which, the GAAR provisions will trigger.

The current provisions of Section 102 shall be amended to combine the definitions of associated person" and "connected person" into one inclusive definition of "connected person".

The GAAR proceeding has to be approved by a Panel. The Approving Panel shall be chaired by a current or a retired High Court judge, one of the members will be from the Indian Revenue Service and one member will be an academician or scholar.

The directions issued by the Approving Panel shall be binding on the taxpayer as well as the income-tax authorities and no appeal against such directions can be made. The Assessing Officer can send a reference to the GAAR panel for one or more assessment years. However, the GAAR Panel has been empowered to go beyond assessment years referred to by the Assessing Officer.

GAAR Procedure



The amendment in the GAAR provision indicates that an arrangement will be considered as IAA, if the main purpose was to obtain a tax benefit. The said amendment brings about much relief to the taxpayers. However, this relief has come with onerous burden on the tax payer of proving that the transaction(s) was indeed carried out without main purpose of obtaining tax benefit. It was specifically recommended that the burden of proof should be on the tax department to establish that the transaction or a part thereof is IAA.

- The constitution of the Approving Panel prima facie shows that there is independence and transparency in the body constituted to decide upon the GAAR cases. The GAAR panel members' tenure will be 1 year which can be extended every year up to a maximum of 3 years by the Government, at its discretion; this may lead to jeopardizing independence of the panel members.
- The current provisions of Section 144BA give powers to the Approval Panel to issue directions which cannot be appealed against and will be binding on the taxpayer and the income-tax authorities. However, if such a situation arises, the taxpayer will be left with a single option of filing a writ petition in the Hon'ble High Court / Supreme Court. Though writ petition seems to be a possible solution, it would burden the writ court, which is already having a large pendency, thereby affecting one of the objective of quick remedy to the open issues.

- Further, against the industry expectations of no retrospective taxation, the provisions empower the Assessing Officer to not only assess the proceedings of a particular IAA for the year under review, but he/she can also re-assess proceedings to the preceding assessment years, thereby enabling the Assessing Officer to conduct assessments on issues having de facto retrospective effect.

Service Tax

No change in threshold limit and rate of Service Tax

- Current threshold exemption limit of Rs. 10 lacs continued
- Current Service Tax rate of 12.36% (including cess) continued

Three more items are being added to the negative list.

- vocational courses offered by institute affiliated to State Council of Vocational Training
- all testing in relation to agriculture produce
- process under Medicinal and Toilet Preparations (Excise Duties) Act, 1955

Change in abatement in case of construction service in respect of larger and higher value residential unit with effect from 1st day of March, 2013

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.

The existing Notification no. 26/2012-ST dated 20.06.2012 is being amended by Notification no. 2/2013-ST dated 01.03.2013. As per the change, where the carpet area of residential unit is up to 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%.

Meaning thereby abatement in respect of residential unit having carpet area of 2000 square feet or value of Rs. 1 crore or more is being reduced from 75% to 70% (effective rate of Service Tax increases from 3.09% to 3.708%).

Amendments in exemptions with effect from 1st day of April, 2013

The following exemptions are being amended:

a. Amendment of exemption limit prescribed for charitable organizations, providing service towards any other object of general public utility. So far, the limit was 25 lacs rupees per annum is now being withdrawn.

b. Exemption provided to restaurants other than those having (i) air-conditioning and (ii) license to serve liquor, is being amended; 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. The main effect of the change would be, restaurants in dry state like Gujarat, which were hither to out of Service Tax net, are now being covered.

c. Rationalization of exemption to transport of goods by road to bring it in line with exemptions available to transport of goods by rail or a vessel.

The following exemptions are being withdrawn:

a. Services provided by way of transportation by rail or a vessel from one place in India to another of the petroleum and petroleum products, postal mail and mail bags and house hold effects.

b. Services provided by an educational institution by way of renting of immovable property.

c. 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.

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

e. Services provided to Government, a local authority or a governmental authority, by way of repair or maintenance of aircraft for level playing field with private sector.

Penalty and prosecution

Penal liability for failure to obtain Service Tax registration capped

Previously, the penal liability for failure to obtain registration could extend to Rs.10,000/- or Rs.200/- for every day of default, whichever was higher. Section 77(1)(a) substituted to exclude the variable penalty of Rs.200/- per day. Henceforth, the penalty for failure to obtain registration can only extend to a maximum of Rs. 10,000/-.

New provision enacted to fasten penal liability on the officers of companies defaulting in payment of Service Tax

Section 78A is being introduced, to make provision for imposition of penalty up to Rs. 1,00,000/- on director, manager, secretary or other officer of the 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:

(i) evasion of Service Tax; or

(ii) issuance of invoice, bill or, as the case may be, a challan without provision of taxable service in violation of the rules; or

(iii) 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; or

(iv) 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.

Effect of wrongful invocation of extended period of limitation

Section 73(2A) introduced: in cases where a demand has been raised invoking the larger period of limitation, i.e. 5 years, and the Court finds that the demand for the larger period is not sustainable because the charges of fraud, suppression, wilful misstatement are not sustainable, the Department can determine the Service Tax liability for the normal period and raise a demand accordingly. It seeks to clarify that in cases where the demand for the normal period (18 months) is sustainable but a notice has been issued within 5 years, the same can be served and the entire demand need not be set aside.

Amendment in relation to default in payment of Service Tax collected but not deposited with the Central Government within a period of 6 months

Section 89 is being amended as follows:

(I) in the case of an offence specified in clauses (a), (b) and (c) of Sub-section (1) where the amount exceeds fifty lacs rupees, punishment shall be for a term which may extend to three years, but shall not, in any case, be less than six months;

(ii) in the case of failure to pay Service Tax collected, to the credit of the Central Government within six months, an offence specified in section 89(1)(d), if such non-payment exceeds fifty lacs rupees, punishment shall be imprisonment for a term which may extend up to seven years but not less than six months;

(iii) in the case of any other offence, the punishment shall be imprisonment for a term which may extend to one year.

Cognizance of offences and power to arrest

Section 90 is being introduced to specify and differentiate cognizable offences from non-cognizable and bailable offences:

(i) an offence under clause (ii) of sub-section (1) of section 89 shall be cognizable.

(ii) all offences except the offence specified as above shall be non-cognizable and bailable.

Section 91 is being introduced to provide for power to arrest. Commissioner of Central Excise is empowered to authorize any officer of Central Excise not below the rank of Superintendent of Central Excise, to arrest a person for offence of failure to pay collected Service Tax beyond period of six months if such non-payment exceeds fifty lacs rupees.

Service Tax Voluntary Compliance Encouragement Scheme, 2013

To encourage voluntary compliance and broaden the tax base, it is proposed to provide one time amnesty by way of waiver of interest and penalty; and immunity from prosecution, to the stop filers, non-filers or non-registrants or service providers (who have not disclosed true liability in the returns filed by them during the period from October 2007 to December 2012) who pay the "tax dues"

“tax dues” means the Service Tax due or payable for the period beginning from the 1st day of October, 2007 and ending on the 31st day of December, but not paid as on the 1st day of March, 2013.

Any person may declare his tax dues in respect of which no notice or an order of determination has been issued or made before the 1st day of March, 2013.

Any person who has furnished return under section 70 and disclosed his true liability, but has not paid the disclosed amount of service tax or any part thereof, shall not be eligible to make declaration for the period covered by the said return.

Where a notice or an order of determination has been issued to a person in respect of any period on any issue, no declaration shall be made of his tax dues on the same issue for any subsequent period

Where a declaration has been made by a person against whom:

(a) an inquiry or investigation in respect of a Service Tax not levied or not paid or

short-levied or short-paid has been initiated by way of (i) search of premises under section 82 of the Chapter; or (ii) issuance of summons under section 14 of the Central Excise Act, 1944, as made applicable to the Chapter under section 83 thereof; or (iii) requiring production of accounts, documents or other evidence under the Chapter or the rules made there under; or

(b) an audit has been initiated, and such inquiry, investigation or audit is pending as on the 1st day of March, 2013, then, the designated authority shall, by an order, and for reasons to be recorded in writing, reject such declaration.

A person may make a declaration to the designated authority on or before the 31st day of December 2013 in such form and in such manner as may be prescribed.

The declarant shall, on or before the 31st day of December, 2013, pay not less than fifty per cent of the tax dues so declared and submit proof of such payment to the designated authority.

The tax dues or part thereof remaining to be paid shall be paid by the declarant on or before the 30th day of June, 2014.

Provided that where the declarant fails to pay said tax dues or part thereof on or before the said date, he shall pay the same on or before the 31st day of December, 2014 along with interest thereon, at such rate as is fixed under section 75 or, as the case may be, section 73B of the Chapter for the period of delay starting from the 1st day of July, 2014.

Notwithstanding anything contained in any provision of the Chapter, the declarant, upon payment of the tax dues declared by him and the interest thereof, shall get immunity from penalty, interest or any other proceeding under the Chapter.

Subject to the provisions of section 101, a declaration made shall become conclusive upon issuance of acknowledgement of and no matter shall be reopened thereafter in any proceedings under the Chapter before any authority or court relating to the period covered by such declaration.

Any amount paid in pursuance of a declaration made shall not be refundable under any circumstances.

Section 101 – where the Commissioner of Central Excise has reasons to believe that the declaration made by a declarant under this Scheme was substantially false, he may, for reasons to be recorded in writing, serve notice on the declarant in respect of such declaration requiring him to show cause why he should not pay the tax dues not paid or short-paid. No action shall be taken after the expiry of one year from the date of declaration.

The scheme will be operational from the date on which the Finance Bill, 2013 receives the assent of the President.

Other amendments

Power of tribunal to grant stays limited to a maximum of 365. Post 365 days, stay order shall stand vacated even if disposal of case is pending.

Scope of advance ruling is being extended to cover resident public limited companies.

Retrospective exemption is being extended to the Indian Railways on the Service Tax leviable on various taxable services provided by them during the period prior to the 1st day of July 2012, to the extent show cause notices have been issued up to the 28th day of February 2013.

Rate of Service Tax

Period	Rate of tax
01-07-1994 to 13-05-2003	5%
14-05-2003 to 09-09-2004	8%
10-09-2004 to 17-04-2006	10.20% (ST+EC)
18-04-2006 to 10-05-2007	12.24% (ST+EC)
11-05-2007 to 23-02-2009	12.36% (ST+EC+SHEC)
24-02-2009 to 31-03-2012	10.30% (ST+EC+SHEC)
01-04-2012 onwards	12.36% (ST+EC+SHEC)

Rate of interest under Service Tax law

Period	Rate of interest
01-07-1994 to 15-07-2001	1.5% p.m. and part thereof
16-07-2001 to 15-08-2002	24% p.a.
16-08-2002 to 09-09-2004	15% p.a.
10-09-2004 to 31-03-2011	13% p.a.
01-04-2011 onwards	18% p.a. 15% p.a.(For assessee having turnover upto Rs. 60 lacs)

Basic exemption limit

Period	Basic exemption limit
01-07-1994 to 31-03-2005	No limit
01-04-2005 to 31-03-2007	Rs. 4 lacs
01-04-2007 to 31-03-2008	Rs. 8 lacs
01-04-2008 onwards	Rs. 10 lacs

Reverse Charge Mechanism

Sr.	Description of services	Notes	Service Tax payable by the person providing services	Service Tax payable by the person receiving services
1.	Insurance agent service to any person carrying on insurance business	-	Nil	100%
2.	Goods transport agency services	-	Nil	100%
3.	Sponsorship services to anybody corporate or partnership firm located in taxable territory	-	Nil	100%
4.	Arbitral tribunal service to any business entity	-	Nil	100%

Sr.	Description of services	Notes	Service tax payable by the person providing services	Service tax payable by the person receiving services
5.	Services of individual advocate or a firm of advocates to any business entity	-	Nil	100%
5A	Services by a director to a company (other than employee - employer relationship)	-	Nil	100%
6.	Services by government or local authority by way of support services to any business entity	-	Nil	100%
7.	a) renting of motor vehicle designed to carry passengers (where abatement is availed)	1 &2	Nil	100%
	b) renting of a motor vehicle designed to carry passengers (where abatement is not availed)		60%	40%
8.	Supply of manpower service/ security service	1	25%	75%
9.	Works contract service	1	50%	50%
10.	Service provided from non taxable territory and received in taxable territory	-	Nil	100%

Notes :

In case of renting of motor vehicle designed to carry passengers, supply of man power, security services and works contract services

1. (a) The service provider should be an individual or HUF or partnership firm (whether registered or not) including AOP; and

   (b) The service recipient should be a body corporate

2. In case of services of renting of a motor vehicle, the service recipient should be any person who is not engaged in similar line of business.

Abatement from value of taxable service

Sr.	Description of taxable service	Taxable Percent-age	Conditions
1	Services in relation to financial leasing including hire purchase	10	Nil
2	Transport of goods by rail	30	Nil
3	Transport of passengers, with or without accompanied belon-gings by rail	30	Nil
4	Bundled service by way of supply of food or any other article of human consumption or any drink, in a premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organizing a function) together with renting of such premises	70	CENVAT credit on any goods classifiable under Chapters 1 to 22 of the Central Excise Tariff Act, 1985 (5 of 1986) used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
5	Transport of passengers by air, with or without accompanied belongings	40	CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
6	Renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes.	60	Same as above
7	Services of goods transport agency in relation to transpo-rtation of goods.	25	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004
8	Services provided in relation to chit	70	Same as above
9	Renting of any motor vehicle designed to carry passengers	40	Same as above
10	Transport of goods in a vessel	50	Same as above
11	Services by a tour operator in relation to,- (i) a package tour	25	(i) CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has

Sr.	Description of taxable service	Taxable Percent-age	Conditions
			not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The bill issued for this purpose indicates that it is inclusive of charges for such a tour.
	(ii) a tour, if the tour operator is providing services solely of arranging or booking accomm-odation for any person in relation to a tour	10	(I) CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The invoice, bill or challan issued indicates that it is towards the charges for such accom-modation. (iii) This exemption shall not apply in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accom-modation for any person and does not include the cost of such accommodation.
	(iii) any services other than specified at (i) and (ii) above.	40	(i) CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii)The bill issued indicates that the amount charged in the bill is the gross amount charged for such a tour.
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 authority,-		(i) CENVAT credit on inputs used for providing the taxable service has not been taken under the provisions of the CENVAT Credit Rules, 2004; (ii) The value of land is included in the amount charged from the service receiver.

Sr.	Description of taxable service	Taxable Percent-age	Conditions
	(i) for residential unit having carpet area upto 2000 square feet or where the amount charged is less than rupees one crore;	25	
	(ii) For other than the (i) above.	30	

Determination of value in case of works contract and supply of food and drink under Service Tax (Determination of Value) Rules, 2006

Sr.	Description of taxable service	Taxable Percent-age	Conditions
1	Service portion in the execution of works contract		CENVAT credit on inputs used for providing the taxable service has not been taken under the provisions of the CENVAT Credit Rules, 2004
	a) Original works	40	
	b) Maintenance, repair etc of any goods	70	
	c) Others not covered by (a) & (b)	60	
2	Service portion in an activity wherein food or any drink is supplied at a restaurant	40	CENVAT credit on any goods classifiable under Chapters 1 to 22 of the Central Excise Tariff Act, 1985 (5 of 1986) used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004
3	Service portion in an activity wherein food or any drink is supplied in outdoor catering.	60	

Customs

Legal amendments

Prohibition of importation or exportation of goods

In addition to existing prohibition of importation or exportation for the purpose of "the protection of patents, trade mark and copy right" under Clause 54 (n) of Sub-section (2) of Section 11, it is proposed to include "designs and geographical indications" to enable the Central Government to prohibit either absolutely or conditionally the import or export of goods to protect these legal rights.

Provisional attachment to protect revenue in certain cases

Under Section 28BA for provisional attachment, it is now proposed to include, notices issued under Sub-section (4) of Section 28, which covers the cases of recovery of duties by reason of collusion, wilful statement or suppression of facts.

Clearance of goods for home consumption

Under Sub-section (2) of Section 47, for clearance of goods for home consumption, it is proposed to reduce the interest free period for payment of Customs Duty, from five days to two days, from the date on which the bill of entry is returned to importer for payment of duty. The interest free period for payment of Customs Duty was 'two days' up to May 10, 2002, which was enhanced to five days by the Finance Act, 2002.

Power to arrest

Under existing Section 104, if an officer of the customs has reason to believe that any person is guilty of the offence punishable under Section 135 (evasion of duty or prohibitions), he may arrest such person.

The existing Sub-section (6) of Section 104 of the Customs Act is substituted with new Sub-sections (6) and (7) so as to provide that, offences relating to:

a. evasion or attempted evasion of duty exceeding fifty lakh rupees, or

b. prohibited goods notified under section 11 which are also notified under Sub-clause (C) of Clause (i) of Sub-section (1) of Section 135, or

c. import or export of any goods which have not been declared in accordance with the provisions of the Act and the market price of which exceeds one crore rupees, or

d. fraudulently availing of or attempt to avail of drawback or any exemption from duty provided under the Act, if the amount of drawback or exemption from duty exceeds fifty lakh rupees, are cognizable and non-bailable offences.

This amendment is introduced to partly overcome the judgment of the Hon'ble Supreme Court in the case of Om Prakash vs. Union of India [2011 (272) E.L.T. 321 (S.C.)], which held that the offences under the Customs Act are non-cognizable and bailable.

It is also proposed to amend sub-clauses (B) and (D) of clause (i) of sub-section (1) of section 135 of the Customs Act so as to increase the threshold limit for punishment with imprisonment up to seven years and with fine, from "thirty lakh" rupees to "fifty lakh" rupees.

Power to recover unpaid taxes from "third party"

For recovery of sums due to Government, Sub-section (1) of Section 142 of the Customs Act, is proposed to be amended by inserting a new Clause (d) therein. It provides that in case of dues of customs, the officer may require third party, from whom the amount is due to the defaulter, to pay to the Central Government, so much of the amount as is sufficient to pay the amount due.

In the Anita Grover judgment dated 3-12-2012 in WP (C) No. 5894/2012, the Delhi High Court observed that there is no provision in the Customs law corresponding to the provisions in other Indian statutes (IT Act or the CST Act, 1956) which can enable the revenue authorities to proceed against directors of companies or such third parties who are not defaulters. A similar order was passed by a High Court of Bombay in Suman N. Agarwal, where the Hon'ble Court stated that no notice to show cause, under Section 124 of the Customs Act, was issued to the petitioner who was the spouse of the proprietor of the defaulting companies. It appears that this amendment under Section 142 has sought to overcome such judgments which suggests that the Customs Duty / other dues recoverable under the Customs Act from a defaulter cannot be recovered from third parties.

Duty deferment

Section 143A (related to duty deferment) is proposed to be omitted, since the same has become redundant as the export promotion schemes have undergone a complete change.

Power to take samples

It is proposed to amend Section 144 to provide that there shall be no liability of duty on any goods consumed as samples during testing or examination.

Disqualification to be an authorised representative :

Sub Section (4) of Section 146A enlists various disqualifications to be an authorised representative. It is now proposed to include that a person who is convicted of an offence connected with any proceeding under the Service Tax, is not qualified to act as an authorised representative in customs matters.

Administrative changes

No refund / issuance of show cause notice for duty up to Rs. 100

- It is proposed to amend Section 27 to provide that if the amount of claim is less than rupees one hundred, the same shall not be refunded.
- It is also proposed to amend Sub-section (1) of Section 28 to provide that the proper officer shall not serve a show cause notice, where the amount involved is less than rupees one hundred.

Expansion in scope of advance ruling proceedings

Clause (a) of Section 28E of the Customs Act is proposed to be substituted, for the purpose of expanding the scope of activity of import or export so as to include any new business of import or export by an existing importer or exporter, in order to enable such importer or exporter to seek advance ruling before the Authority for Advance Rulings.

Power of Board to allow landing of aircrafts and vessels

It is proposed to amend Section 29 to empower Board to allow landing of aircrafts

and vessels at any place other than customs airports or customs ports.

Electronic filing of import / export manifest

- An amendment to Section 30 proposes to provide for electronic filing of import manifest and to insert a proviso that where this is not feasible, the Commissioner of Customs may allow the delivery of such manifest in any other manner.
- An amendment to Sub-section (1) of Section 41 proposes to provide for electronic filing of export general manifest and to insert a proviso that where this is not feasible, the Commissioner of Customs may allow the delivery of such manifest in any other manner.

Period for storage of imported goods in warehouse pending clearance

Section 49 has been amended by prescribing time limit of 30 days up to which imported goods can be stored in a public warehouse.

- This has been done to assure accountability of importer and early finalization of assessment.
- Earlier there was no such time-limit prescribed for storage of imported goods in public warehouse pending clearance.
- The Commissioner of Customs has, however, been granted powers to extend the period of storage for a further period not exceeding 30 days at a time.

Export of warehoused goods

It is proposed to substitute clause (a) of Sub-section (1) of Section 69 to provide that any warehoused goods may be exported to a place outside India without payment of import duty, if a shipping bill or bill of export in prescribed form or label or declaration (as per Section 82) has been presented in respect of such goods.

Vacation of stay order in case of appeal before the Appellate Tribunal

Section 129B of the Customs Act has been amended in line with the amendment to Section 35C of the Central Excise Act :

- In cases where stay is granted by the Tribunal, but, the related appeal is not

Enhancement in monetary limit of single bench of Tribunal

It is proposed to amend Section 129C of the Customs Act, with a view to enhance the monetary limit of the Single Bench of the Appellate Tribunal to hear and dispose off the appeals from “ten lakhs rupees” to “fifty lakhs rupees”.

Customs House Agents to be renamed as Customs Brokers

An amendment proposes to substitute section 146 with new Section 146 so as to substitute the words ‘customs house agents’ with the words ‘customs brokers’ considering the global practice and internationally accepted nomenclature.

Liability of agent

It is proposed to amend Sub-section (3) of Section 147 to provide that the agent is equally liable for any act or omission when the agent is expressly or impliedly authorised by the owner, importer or exporter of any goods to be his agent in respect of such goods for all or any of the purposes of the Act.

Notification number G.S.R. 153(E), dated 1st March, 2011

It is proposed to amend the notification number G.S.R. 153(E), dated 1st March, 2011 to provide exemption from export duty to “7210 – Flat road iron or non-alloy steel, of width of 600mm or more, clad, plated or coated” and “7212 - Flat road

products of iron or non-alloy steel, of width of less than 600mm, clad, plated or coated". It is also proposed to refund all such duty of customs which has been collected but which would not have been so collected had the notification been in force at all material times and an application for the claim of refund of duty of customs shall be made within six months from the date on which the Finance Bill, 2013 receives the assent of the President.

Customs Tariff

All changes in rates are effective from 01-03-2013.

- Peak rate of Basic Customs Duty (BCD) maintained at 10 %
- Peak rate of Countervailing Duty (CVD) and Special Additional Duty (SAD) also maintained.
- Passenger Baggage – Duty free limits on jewellery for Indian passenger, residing abroad for over one year, enhanced for men – from Rs. 10,000 to Rs. 50,000 and for Lady –from Rs. 20,000 to Rs. 1,00,000.
- BCD increased on certain products as follows:

Products	Present rate	New rate
Car / motor vehicles (CIF> USD 40,000, regardless of engine capacity)	75%	100%
Car / motor vehicles (capacity > 3000cc for petrol – run / 2500cc for diesel – run, regardless of value)	75 %	100%
Luxury motorcycles (capacity >800cc)	60%	75%
Old cars	100%	125%
Set-top boxes	5%	10%

- BCD reduced on certain products as follows :

Products	Present rate	New rate
20 specified machinery for leather and footwear industry	7.5%	5%
Textile machinery and parts	7.5%	5%
Pre-forms precious and semi-precious stones	10%	2%

- Bituminous and steam coal to attract uniform BCD and CVD of 2 % each to avoid mis-classification.
- BCD and CVD exemption extended to parts and testing equipment for maintenance, repairs and overhaul (MRO) of aircraft parts – similar exemption extended to private aircrafts and parts. Time consumption / installation extended from 3 months to 1 year.
- Specified ships and vessels exempted from CVD.
- Duty on raw silk increased from 5 to 15 percent.
- Export duty on de-oiled rice bran oil cake withdrawn.
- Customs Duty of 10% on export of unprocessed ilmenite and 5% on export of ungraded ilmenite (beneficiated ilmenite including ilmenite ground).

Excise

Legal amendments

Offences and penalties

It is proposed to amend Section 9 of the Central Excise Act so as to increase the threshold limit of evasion, for punishment with imprisonment upto seven years and with fine, from "thirty lakh rupees" to "fifty lakh rupees".

It is also proposed to insert new Sub-section (1A) in Section 9A, so as to provide that offences relating to evasion of payment of duty or claiming wrong credit, where the duty leviable on such goods exceeds fifty lakh rupees, shall be cognizable and non-bailable.

Section 20 is proposed to be amended to make the provisions empowering an officer-incharge of a police station to admit bail to any person forwarded to him by the Central Excise officer, applicable only to an offence which is non-cognizable.

Section 21 is proposed to be amended to make the provisions regarding release of arrested persons on bail or personal bond applicable only to an offence which is non-cognizable.

The proposed amendments to Section 9A, Section 20 and Section 21 seek to overcome the judgement of the Hon'ble Supreme Court rendered in the case of Om Prakash vs. Union of India [2011 (272) E.L.T. 321 (S.C.)], wherein it was held that the offences under the CE Act are non-cognizable and bailable. Similar amendments were proposed in the Finance Bill, 2012, but were however not legislated / included in the Finance Act, 2012.

Service of notice for recovery of duties

In cases where the notices are issued for recovery of duties, in Section 11, it is proposed to insert Sub-section (7A) with a view to provide that where a notice or notices have been served, service of a statement of details of duty of excise not levied, or not paid or short levied or short paid or erroneously refunded, on the person chargeable with duty of excise, shall be deemed to be service of notice on such person if the grounds relied upon, for the subsequent period, are the same as are mentioned in the earlier notice or notices.

Provisional attachment to protect revenue in certain cases

Provisional attachment under Section 11DDA is now proposed to include, notices issued under Sub-section 4 of Section 11A, which covers the cases of recovery of duties by reason of collusion, wilful statement or suppression of facts and Sub-section 3 of Section 11A, which covers the cases of recovery of duties found payable during audit, investigation or verification.

Power to recover unpaid taxes from "third party"

For recovery of sums due to Government, Section 11 of the Central Excise Act, is proposed to be amended by inserting Sub -section (2) therein . It provides that in case of dues of excise, the officer may require third party, from whom the amount is due to the defaulter, to pay to the Central Government, so much of the amount as is sufficient to pay the amount due.

Administrative changes

There are several proposals of Financial Bill which seeks to amend administrative and procedural provisions.

Expansion in the scope of advance ruling proceedings

- It is proposed to substitute Clause (a) of Section 23A of the Central Excise Act, for the purpose of expanding the scope of activity of production or manufacture so as to include any new business of production or manufacture by the existing producer or manufacturer in order to enable such producer or manufacturer to seek advance ruling before the Authority for Advance Rulings.
- It is also proposed to amend Clause (e) of Sub-section (2) of Section 23C of the Central Excise Act, so as to extend the Advance Ruling provisions also to the admissibility of the credit of Service Tax paid or deemed to have been paid on input service used in the manufacture of the excisable goods.
- The proposed amendment to the definition of 'activity' will enable existing producers or manufacturers to seek Advance Ruling for a new business venture. Presently, an Advance Ruling can be sought, inter alia, on the question of admissibility of credit of Excise Duty paid or deemed to have been paid on goods used in / in relation to the manufacture of excisable goods. The proposed amendment to Section 23C(2) seeks to expand the scope of the questions regarding which an Advance Ruling can be sought, to cover the question of 'admissibility of credit of service tax paid or deemed to have been paid on input service'.
- Presently, only joint ventures or a wholly owned Indian subsidiary of a foreign company, are eligible for Advance Ruling under the CE Act. Vide Notification No. 4/2013–CE(N.T.) dt. March 1, 2013, and "resident public limited companies" have been notified as a person eligible for seeking Advance Ruling. The term "public limited company" shall have the same meaning as is assigned to "public company" under Section 3(1)(iv) of the Companies Act, 1956 and shall include a private company that becomes a public company by virtue of Section 43A of the Companies Act, 1956. The term "resident" shall have the same meaning as under Section 2(42) of the IT Act, 1961.

Power of extension of stay available to the Tribunal

A third proviso is proposed to be inserted under sub-section (2A) of Section 35C to provide as follows:

- In cases where stay is granted by the Tribunal, but, the related appeal is not disposed off within a period of 180 days from the date of grant of the stay, then based on an application made by a party, the Tribunal can extend the stay for a further period of 185 days.
- Such extension will be granted by the Tribunal only in cases where the Tribunal is satisfied that the delay in disposing off the appeal is not attributable to the applicant party.
- However, the stay will stand vacated if the appeal is not disposed off within the total period of 365 days from the date of grant of the stay.
- In Commissioner of Customs and Central Excise, Ahmedabad vs. Kumar Cotton Mills Pvt. Ltd. [2005 (180) E.L.T. 434 (S.C.)], the Hon'ble Supreme Court inter alia held that the Tribunal has the power to extend the period of stay upon the expiry of the 180 day time period specified under Section 35C(2A). However, the power of extension of the period of stay shall be exercised only on good cause and on satisfaction that the matter could not be

heard and disposed off for reasons of fault attributable to the Tribunal, and not for reasons attributable to the assessee.

- The proposed amendment seeks to circumscribe the power of extension of stay available to the Tribunal to a period of 185 days. It may be noted that an identical provision (restricting the power of the Tribunal to grant stay for a period of 365 days only) exists under the third proviso to subsection (2A) of Section 245 of the IT Act. In a catena of judgments, including Ronuk Industries [333 ITR 99 (Bom)], Tata Communications Ltd vs. ACIT [138 TTJ 257 (Mum)(SB)], Vodafone West Ltd vs. ACIT [2013-TIOL-68-ITAT-AHM] and Qualcomm Incorporated vs. ADIT [2012-(210)- Taxmann-0617-DEL] it has been held that despite the third proviso to Section 254(2A) of the IT Act, the Tribunal had the power to grant stay of demand beyond the prescribed period of 365 days, if the assessee was not at fault. However, a contrary view has been taken in CIT vs. Ecom Gill Coffee Trading Pvt. Ltd. [(2012) 209 Taxmann 190 (Kar.)] wherein it was held that the Tribunal is not authorized to grant stay for a period exceeding 365 days.

Enhancement in monetary limit of single bench of Tribunal

It is proposed to amend Section 35D of the Central Excise Act, with a view to enhance the monetary limit of the Single Bench of the Appellate Tribunal to hear and dispose off the appeals from "ten lakh rupees" to "fifty lakh rupees".

Additional modes of service of specified documents

Clause (a) of Sub-section (1) of Section 37C of the Central Excise Act is proposed to be amended, so as to specify additional modes of service of specified documents. These modes are speed post with proof of delivery or by courier as approved by the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963. Sub-clause (ii) of said Clause proposes to make consequential amendments in Sub-section (2) of Section 37C.

Central Excise Tariff

All changes in rates are effective from 01-03-2013.

- No change in median rate (base rate) of Central Excise Duty (continued at 12 %)
- Rate movement

Products	Present rate	New rate
SUV (except those registered as taxi)	27 %	30%
Chassis fitted with engines for trucks and lorries (other than petrol driven)	14 %	13%
Mobile phones with RSP > Rs. 2000	1 %	6%
Ships and other vessels (including cargo ships, barges, tugs ,light –vessel, dredgers, floating cranes, floating docks, floating or submersible drilling or production platforms)	2%	Nil
Marble	Rs. 30 per sq. mtr.	Rs. 60 per sq. mtr.

Products	Present rate	New rate
Compounded duty rate on stainless steel "patta-patti"	Rs. 30,000 per machine per month	Rs 40,000 per machine per month
Cigarettes, cigars, cheroots and cigarillos	As per rates specified in first schedule, chapter 24 of Central Excise Tariff Act.	Increased – As per rates specified in first schedule, chapter 24 of Central Excise Tariff Act.
All handmade carpets and carpets and other textile floor coverings of coir and jute, whether or not handmade	1% (without CENVAT) & 5% (with CENVAT)	Exempted
Silver manufactured from smelting	0%	4%

- Option of NIL Excise Duty or CENVAT Credit reintroduce for branded ready-made garments and made-ups
- MRP based assessment expanded to include branded Ayurvedic / Unani/ Siddha/ Homeopathic/ Biochemic system medicaments with abetment of 35%

Full exemption from Central Excise Duty

- Tapioca starch manufactured and consumed captively in the manufacture of tapioca sago (sabudana)
- Peanut butter to be re-classified under sub-heading 2008 11 00. Full Exemption from Excise Duty granted to peanut butter under the earlier sub-heading (i.e. 1517 9020) will continue
- Tapioca sago
- All goods for the manufacture of fertilizers. Sulphur recovered as a by-product in refining of crude oil (sub-heading 2503 0010) used for the manufacture of fertilizers is exempt from Excise Duty. 'Fertilizers' include bentonite sulphur and hence sulphur under sub-heading 2502 0010 used for manufacture of bentonite sulphur is exempt from Excise Duty.
- Henna powder or paste, not mixed with any other ingredient
- All handmade carpets and carpets and other textile floor coverings of coir and jute, whether or not handmade, falling under Chapter 57
- Goods manufactured and captively consumed within the factory of production in the manufacture of final products in respect of which exemption is claimed under the Area Based

Useful information

ROC Compliances

Compliance by listed companies

Filling with Stock Exchange	Q1	Q2	Q3	Q4
Corporate governance report	15.07.2013	15.10.2013	15.01.2014	15.04.2014
Unaudited financial results (with limited review)	45 days	45 days	45 days	-
Audited yearly financial results	-	-	-	60 days

Compliance by all companies

Compliance	Date
Last day for convening AGM	Within 6 months from the closure of accounts; or
	15 months from the date of last AGM whichever is earlier
File copies of annual accounts with ROC	Within 30 days of AGM
Filling of annual return with ROC	Within 60 days of AGM

Filling Fee

Compliance	Fees
For All documents (except Form 1A)	
Share capital less than Rs.1 lac	Rs. 100/-
Share capital Rs.1 lac & above but below Rs. 5 lacs	Rs. 200/-
Share capital Rs.5 lacs and above but below Rs.25 lacs	Rs. 300/-
Share capital Rs.25,00,000 and above	Rs. 500/-
For Form 1A	
Form 1A application fee	Rs. 1,000/-
Inspection fee (for three hours after view document)	Rs. 50/-

Additional fees for delayed filling (except Form 5)

Delay	Additional fee
Up-to 30 days	2 times of normal fees
More than 30 days and up-to 60 days	4 times of normal fees
More than 60 days and up-to 90 days	6 times of normal fees
More than 90 days	9 times of normal fees

Additional fees for delayed filling (Form 5)

Delay	Additional fee
Up to one year	2% of filing fees per month or part thereof of delay
Exceeding one year	2.5% of filing fees per month or part thereof of delay

Fees to be paid to the registrar of companies on registration

I. Fees payable by the company having share capital

For registration

Nominal share capital	Fees (Rs.)
Up to 1,00,000	4000
1,00,000 - 5,00,000	4,000 plus 300 for every 10,000 or part thereof
5,00,000 – 50,00,000	16,000 plus 200 for every 10,000 or part thereof
50,00,000 – 1,00,00,000	1,06,000 plus 100 for every 10,000 or part thereof
After 1,00,00,000	1, 56,000 plus 50 for every 10,000 or part thereof

Note : The maximum fees payable to the registrar for registration of a new company having a share capital is fixed at rupees two crores. In case on the basis of the above calculation the total amount of fees exceeds rupees two crores, even then the amount of fees required to be paid will be limited to Rs. two crores.

II. Fees payable by a company not having a share capital

For registration

Number of members as stated in articles of association	Fees payable
Not exceeding 20 members	Rs. 1000.00
21 to 100 members	Rs. 2500.00
Exceeding 100 members but not stated to be unlimited	Rs. 2500.00 plus Rs.10 for every single members or less
Number of member stated to be unlimited	Rs. 5000.00

The maximum fee payable for registration of a company not having share capital has been fixed at Rs. 5000/-.

Disclaimer:
Prepared for, client service and internal use only. This document summarizes the indirect and direct tax proposals of the Union Budget 2013. Expert guidance may be sought before acting upon the proposals. The analysis/views in this booklet do not purport to be and should not be treated as legal opinion. Nothing contained herein can substitute appropriate legal opinion, keeping in view the specific facts and situations that affect you or your enterprise.

Process of Union Budget

- ✓ **What does the Union Budget contain?**

  The Union Budget is our country's annual financial statement of receipts and expenditures for the coming financial year similar to an individual's personal cash flow statement but prepared on an annual basis. It contains the expected revenues to be received and expected expenditures to be met in the coming financial year by the Government of India. It is supposed to be an indicator of the economic growth and the financial well being of our country.

- ✓ **When is the Union Budget presented?**

  The presentation of the Union Budget is usually done on the last working day of February. However, in case of the last working day falls on a Sunday it is presented on the day before last working day.

- ✓ **Who prepares Government's annual budget?**

  There's a separate division in the Ministry of Finance called as the 'Budget Division' to look after the preparation of the Budget.

- ✓ **Budget process?**

  Here are the various stages through which the Union Budget goes through before it is passed in the lower house of Parliament (Lok Sabha) after which the President of India signs it and it becomes an Act:

  - ✓ Every year, the 'Budget Division' under the Ministry of Finance is responsible for the preparation of the budget. All government ministries & departments send in their funds' proposals and requirements.
  - ✓ Based on the inputs, a Draft Budget is prepared.
  - ✓ The draft budget is then approved by the Finance Minister in consultation with the Prime Minister.
  - ✓ A final budget is then presented in the Parliament.
  - ✓ A discussion on the budget is held in the Parliament regarding each ministry's grant proposals and Finance Minister responds to questions. Revision of tax (direct & indirect) proposals are also discussed & voted upon here.
  - ✓ Once the grants are approved, two bills 1) Appropriation Bill (final approval of funds to be given to each ministry, and 2) Finance Bill (tax proposals) are introduced in the Lok Sabha. Union Budget is then approved.

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