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UNION BUDGET 2007-2008

An Analysis of Indirect Tax Proposal

Amendment under Service Tax :

- I. SERVICE TAX RATE REMAINED UNCHANGED AT 12%. However, secondary and Higher education cess of @ 1% imposed on all taxable services. Thus effective tax liability on taxable services would become 12.36%. The said amendment is effective from date when the finance bill receive the ascent of the President of India**
- II. SERVICE TAX NET WIDENED - 7 NEW SERVICES INTRODUCED (Effective from date to be notified)**

Telecommunication Service	Taxable Services in relation to telephone connection, pager, leased circuit, communication through telegraph, telex and FAX taxable under various category have been categorically merged under telecommunication services.
Mining of Mineral Oil & Gas Service	It has been clarified that various mining services like survey and exploration of mineral, site formation and clearance, excavation and earth moving, drilling wells for production, well testing etc.. would be comprehensively charged under this category of service.
Renting of Immovable Property Service	Renting of factories, office buildings, warehouses, theatres, exhibition halls and multiple use buildings. Building used solely for residential purpose is excluded. Buildings used for purpose of accommodation including hotels, hostels, boarding houses, holiday accommodations, tents, campaign facilities are excluded. Religious and educational body are excluded, however, such exclusion is not applicable for commercial training or coaching center. Vacant land used for agriculture, aquaculture, farming, forestry, animal husbandry, mining are excluded. Land used for educational, sports, circus, entertainment and parking purposed are excluded.
Execution of a works contract	The Hon'ble Supreme Court and various other Tribunal had held that the works contract cannot be vivisected and part of it subjected to service tax. An amendment in the Finance Act is proposed to overrule such findings to the Hon'ble Supreme Court and to bring works contact on which an assessee has to pay VAT/Sales Tax under the purview of Service Tax. Following works contacts are being proposed under the Service Tax net : <ul style="list-style-type: none">o Erection, commissioning or installation.



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Event management services.	The scope of service extended to include services in relation to marriage functions.
Manpower recruitment or supply services.	Services in relation to pre-recruitment procedures are being proposed to include in the tax net.
Banking and other financial services.	Cash management services hitherto specifically excluded has been proposed to be taxed.
Management consultant's services.	Scope has been extended to include management of business which has wider scope than that of management of an organization
Consulting engineer's services.	Computer hardware engineering services are being specifically included
Management, maintenance or repair service.	Maintenance, repair including reconditioning or restoration or servicing of computer software by the manufacturer or his authorized person may be attracted.

IV. KEY LEGISLATIVE CHANGES :

Threshold limit of service tax exemption for small service providers extended to Eight lakhs from existing 4 Lakhs : Effective from 01-04-2007 vide Notification No. 4/2007-ST dated 01-03-2007

Vide Notification No. 4/2007-ST dated 01-03-2007, threshold limit of service tax exemption for small service provider has been extended to **eight** lakhs from existing **four** lakhs in any financial year. The said new limit would be applicable for the Financial Year 2007-2008. Accordingly, limit for obtaining registration have been extended to **seven** lakhs from existing **three** lakhs.

Adjustment of excess service tax paid in a month/quarter available to all the assessee : Effective from 01-03-2007 vide Notification No.1/2007-ST dated 01-03-2007

Hitherto service providers having centralized registration number were allowed to adjust any excess amount of service tax paid subject to specified conditions against their subsequent service tax liability. Effective from 01-03-2007 such adjustment flexibility would be applicable to all the assessee, subject to following conditions :

- Such excess amount paid should not be on account of interpretation of law, taxability, classification, valuation or applicability of any exemption notification.
- A monetary limit of Rs.50,000/- for relevant month or quarter has been provided. However, assessee having centralized registration has no such limit.



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- A details and reasons of such adjustment to be intimated to the jurisdictional Superintendent of Central Excise within 15 days of such adjustment.

A new concept of revised return has been introduced : Effective from 01-03-2007 vide Notification No.1/2007-ST dated 01-03-2007

A new concept of revised return to correct mistake or omission has been introduced with effect from 01-03-2007. A revised return shall be submitted in form ST-3 in triplicate within 60 days from the date of submission of original return.

Surrender of original registration certificate not required for amendment in existing registration or incorporation of new taxable services an intimation may be sufficient : Effective from 01-03-2007 vide Notification No.1/2007-ST dated 01-03-2007

Hitherto for amendment to information pertaining existing registrant the original registration certificate was required to be surrendered. Such practice cause undue hardship to various sections of assessee. Effective from 01-03-2007, self certified registration certificate shall suffice such requirement. Moreover, necessary amendment in the registration form in this regard has also been specified.

Hitherto for any change in information or details furnished in the registration form, an assessee was required to furnish such amended registration form. It has been provided that intimation about such change of information and/or details shall suffice the requirements.

Relevant amendment in definition of export services made to settle existing legal dispute in relation to commission income generated by Indian counterpart of foreign multinationals : Effective from 01-03-2007 vide Notification No.2/2007-ST dated 01-03-2007

Amendment in the condition of export of services has been made so as to replace word “delivered outside India” with the word “provided from India”. Thus, Indian counterpart of multinational company presenting fighting legal battle in relation to taxability of commission etc. earned on procurement of orders for their foreign parent company would be treated as export of service not liable to service tax.

Other important Amendments :

Vide Notification No. 12/2007-ST dated 01-03-2007 exemption is provided to a services provided by the digital cinema provider to the producer or distributor in relation to the delivery of content of cinema in digital form after encryption electronically. The said exemption is available if the content being in digitized form, transmitted directly to a cinema theatre for exhibition through satellite, microwave or terrestrial communication line and not by any physical means including CD and DVD.



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Amendment under Central Excise & Customs :

I. REDUCTION IN PEAK CUSTOM DUTY RATE : (Effective from 01-03-2007)

Peak rate for non agricultural goods reduced from 12.5% to 10%. However, the effective reduction in aggregate duty is 2.61% instead of 2.5%.

II. SECONDARY & HIGHER SECONDARY EDUCATION : (Effective from 01-03-2007)

A Secondary and Higher Secondary Education Cess (S&H E Cess) of 1% on the effective duties of Customs & Excise has been imposed effective from 01-03-2007. **The pertinent question arises as to whether such S&H E Cess would be applicable on goods manufactured prior to 01-03-2007, lying in stock as on 28-02-2007** and cleared after imposition of the said cess from 01-03-2007. The said question arises because of the reason that liability of Central Excise is of manufacture, however, the said liability is payable on clearance.

The Central Board of Central Excise & Customs had earlier issued a Circular No. 345/2/2004-TRU (Pt.) dated 10-08-2004 in relation to similar issues when education cess was introduced in Union Budget 2004. The board clarified that :

“Education cess on Excisable goods is a new levy. In similar cases, it has been held by the Supreme Court that if a levy is not there at the time the goods are manufactured or produced in India, it cannot be levied at the stage of removal of the said goods. Thus, Education cess is not leviable on excisable goods manufactured prior to imposition of cess but cleared after imposition of such cess.”

We understand that in the light of the aforesaid clarification issued by the Central Board of Central Excise & Customs in relation to applicability of education cess, the treatment of S & H E Cess would be acceptable to the revenue, which is again a new levy.

III. OTHER IMPORTANT AMENDMENTS / EXEMPTIONS :

- Exemption for Small Scale Industries increased from Rs. 1 crore to 1.5 crore. The said amendment would be effective from 1st April'2007
- Retail sale price based duty is being proposed for most of the personal computers (including laptop), parts and accessories.



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Valuation of goods removed from Job workers premises : Effective from 01-04-2007 vide Notification No 9/2007-CE (NT) dated 01-03-2007

Rule 10A has been introduced in Central Excise Valuation (Determination of Price of Excisable Goods) Amendment Rules'2007 in relation to valuation of goods removed from the job work premises. The major highlights of such amendments are as under :

- Hitherto valuation of goods removed from job worker's premises was made as per the decision of Hon'ble Supreme Court in the case of Ujagar Prints whereby the assessable value was determined as cost of raw material plus conversion charges for job work. In terms of Rule 10A the valuation of goods from job worker's premises would be carried out in following manner :
- Where goods are being sold from job worker's premises to an unrelated buyer the assessable value would be the transaction value being the sole consideration received from buyer. The transportation cost upto factory of job worker shall be included if charged separately from the buyer.
- Where goods are being removed from job worker's factory to any other place to be sold from such other place to an unrelated buyer, the assessable value would be the transaction value would be the prevailing price at place of sale. The transportation cost upto such place of sale shall be included if charged separately from the buyer.

Let us understand by an illustration how such value shall be determined :

Illustration : A Ltd. in Pune manufactures a semi finished goods and supplies to same to B Ltd. in Mumbai for further manufacture of final product. Final products are manufactured and sold from B Ltd premises in Mumbai to C Ltd., Bangalore at a unit price of Rs.100, the assessable value for the purpose of charging excise duty would be Rs.100. However, if A Ltd. gets the final products manufactured from B Ltd and supply the same directly to their depot in Bangalore and subsequently sale the said goods to C Ltd. in Bangalore. In such case assessable value of the final products would be the prevailing price in A Ltd. depot in Bangalore at the time of removal from the factory of B Ltd. Mumbai.

Powers given to jurisdictional Deputy/ Assistant Commissioner to deny CENVAT Credit for lack of proper particulars on Invoice : Effective from 01-03-2007 vide Notification No.10/2007-CE(NT) dated 01-03-2007

Hitherto CENVAT credit was not denied for lack of proper particular on invoices received from the supplier, if the jurisdictional AC/DC was satisfied that duty of excise or service tax due on input or input service has been paid and same are being used or to be used in manufacture of final product or providing



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output services. Moreover, such AC/DC was required to record the reason for not denying such credit in his records. Effective from 01-03-2007 amendment in Rule 9(2) of the CENVAT Credit Rules have been made whereby it is provided that :

- CENVAT credit shall not be taken unless all the particulars as prescribed under all the rules are contained in invoice, bill of entry or documents on which CENVAT credit is available.
- AC/DC have been given powers to allow such credit if such improper documents contained at least required documents. Thus, Credit may be denied if an invoice does not contain all such particulars as required under the law. However, if it contains specific particulars, the credit may be allowed by AC/DC.

Central Excise Invoice to include address of Central Excise Division : Effective from 01-04-2007 vide Notification No.8/2007-CE (NT) dated 01-03-2007

Address of the concerned Central Excise division shall be incorporated in the Central Excise invoice effective from 1st April'2007

Compulsory e-payment of Central Excise Duty for unit paying annual duty of Rs. 50 lakhs or more through PLA : Effective from 01-04-2007 vide Notification No.8/2007-CE(NT) dated 01-03-2007

Assessee paying Central Excise duty of Rs.50 lakhs or more during Financial Year 2006-07 through PLA shall be required to deposit duty electronically through internet banking effective from 1st April'2007.

Penalty for non issuance of invoice, issuance of invoice without delivery etc. & quantification of Penalty revised : Effective from 01-03-2007 vide Notification No.8/2007-CE(NT) dated 01-03-2007

Non issuance of excisable invoice, issuance of excise invoice without delivery of goods specified therein or issuance of any documents whereon receiver takes any ineligible benefit of CENVAT or refund. A penalty on such offence would be Rs.5000 or amount of benefits, whichever is greater. Moreover, Penalty for other offence reduced from 10000 to 2000. Reduction in penalty would be effective from the date finance bill receive presidents assent.

Cesses would be eligible for CENVAT Credit:

Education cess and secondary and higher education cess are eligible as CENVAT credit and are also eligible for set off against each other. Effective 01-03-2007. *Effective from 01-03-2007 vide Notification No.10/2007-CE(NT) dated 01-03-2007*