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INDIAN UNION BUDGET HIGHLIGHT-2009-10





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HIGHLIGHT OF THE UNION BUDGET- 2009-10

Few of the important amendments, proposed to be effected by the Finance (No. 2) Bill, 2009 introduced on the floor of the Parliament on July 06, 2009 effective from **Assessment Year 2010-2011 or Financial Year 2009-10** are as under:

I. DIRECT TAXES:

A Personal Taxation

1. Income Tax exemption limit raised by Rs.

10,000-15,000- The income tax exemption limit has been increased by Rs. 15,000 for senior citizens and by Rs.10,000/- each for men and women. The changed exemption limit now stands at Rs.240,000/- for resident senior citizens, Rs.190,000/- for resident women and Rs.160,000/- for any other individual, every HUF/ AOP/BOI/ artificial juridical person. The proposed amendment shall result in a maximum saving of Rs. 1545/- for senior citizens and Rs. 1030/- for other individuals.

2. Elimination of surcharge of 10% for non-

corporates- Surcharge of 10% levied on income on individuals or HUF or AOP or BOI having a total income exceeding Rs. 1 million is proposed to be withdrawn. Similarly, surcharge of 10% levied on firms with total income exceeding Rs. 10 million is proposed to be withdrawn.

3. Ambit of Perquisites under the Head Salary increased:

(i) Sweat Equity shares and Stock Options

taxable when allotted- Sweat equity shares and stock options are taxable in the hands of the employee as a perquisite at the time when they are allotted or transferred, directly or indirectly by the employer or former employer.

(ii) Contribution to Superannuation Fund by employer above certain limit taxable-

Contribution made by an employer to an approved superannuation fund in respect of the employee in excess of Rs. 100,000/- is proposed to be taxable as a perquisite.

(iii) Fringe Benefits- Value of Fringe benefits as

may be prescribed is proposed to be taxable in the hands of the employees, with the abolishment of Fringe Benefit Tax (FBT). Accordingly, we may see a reversal to the old days when detailed Perquisite Rules were prescribed for specified and non-specified employees.

4. Gifts received, other than by way of money also to be taxable-

The value of Gifts received on or after 1st October 2009 by an individual or a HUF is proposed to become the income of the recipient, subject to certain conditions. At

present the chargeability to tax is restricted to the value of gifts received by way of money exceeding in aggregate Rs. 50,000/-, subject to certain conditions. It is now proposed to levy tax on the following gifts also :-

- (i) receipt of immovable property without consideration, the stamp duty value of which exceeds Rs. 50,000/-. The stamp duty value of such property becoming the income of the recipient.
- (ii) receipt of immovable property for a consideration less than the stamp duty value by an amount exceeding Rs. 50,000/-. The stamp duty value of such property as exceeds the consideration becoming the income of the recipient.
- (iii) receipt of 'property' other than immovable property without consideration, the aggregate fair market value being in excess of Rs. 50,000/-. The aggregate fair market value of such property becoming the income of the recipient.
- (iv) receipt of 'property' other than immovable property for a consideration less than the aggregate fair market value by an amount exceeding Rs. 50,000/-. The aggregate fair market value of such property as exceeds the consideration becoming the income of the recipient.

'Property' here means immovable property, being land or building or both; shares and securities; jewellery; archaeological collections; drawings; paintings; sculptures; any work of art.

The exclusion cases, in which the gifts received do not form part of taxable income, remains the same as before.

- 5. **No double benefit possible on receipts of voluntary retirement-** It has been clarified that exemption u/s 10(10C) shall not be available if relief has already been taken u/s 89 in respect of any amount received on voluntary retirement or terminations of service or voluntary separation. Similarly, no relief u/s 89 shall be given in respect of any amount received on voluntary retirement or terminations of service or voluntary separation if exemption has been claimed by the assessee in respect of such or any other assessment year.
- 6. **Investment in proposed New Pension System deductible-** investment by any individual under the New Pension System is proposed to be deductible u/s 80CCD to the extent the amount so paid or deposited does not exceed 10% of the salary in the previous year. Further, the income of the New Pension System (NPS) Trust has been made tax exempt and also the donors of any dividend to the Trust shall not be required to pay any Dividend Distribution Tax. No tax withholding of tax is required from any payment made to a person for or on behalf of the NPS trust.
- 7. **Deduction available for maintenance of dependant with disability increased-** The deduction available for maintenance, including medical treatment of a dependent who is a

person with disability is proposed to be increased from Rs. 75,000/- to Rs. 100,000/-.

8. Ambit of deduction on Interest on students' loans in higher education widened-

The ambit of 'higher education' is proposed to be increased whereby any course of study pursued after passing Senior Secondary Examination or its equivalent (or High School) from any recognized school, board or university shall be covered. Vocation courses such as hospitality, computers shall also now be covered.

9. Allowability of Partners remuneration increased-

It is proposed to increase the allowable amount of partners remuneration payable to a working partner and remove the distinction between a firm of professionals and other firms.

On a book profit of Rs. 1 million, subject to the terms of the partnership deed, the maximum amount of remuneration allowable earlier was Rs. 430,000/- for a professional firm and Rs. 435,000/- for other firms. Under the new proposal, on a book profit of Rs. 1 million, subject to the terms of the partnership deed, the maximum amount of remuneration allowable would be Rs. 570,000/- for all firms.

10. Taxability of Limited Liability Partnerships (LLPs) to be same as Partnership firms-

The taxability of a Limited Liability Partnership (LLP) firm as well as its limited partners/ designated partners as per the Limited Liability Partnership

Act, 2008 shall be the same as the taxability provisions currently applicable to a partnership firm under the Indian Partnership Act, 1932. In other words, the LLP shall be a taxable assessee in whose hands the income received or receivable shall be assessed to tax. Share of profits of the limited partners/ designated partners in the LLP shall be exempt u/s 10(2A). Further, the designated partner has been authorized to sign the Return of Income of the LLP and where for unavoidable reason such designated partner is not able to sign and verify the return or where there is no designated partner, by any partner thereof.

11. Wealth Tax minimum exemption limit raised-

It is proposed that the minimum exemption limit under the Wealth Tax Act, 1957 be raised from Rs. 1.5 million to Rs. 3 million. This will result in a saving of Rs. 15,000/- excluding surcharge and cess.

12. Contribution to Electoral Trusts deductible-

A new concept of an Electoral Trust has been proposed, which would mean a Trust which has been approved by the Central Board of Direct Taxes (CBDT) under a scheme made in this regard. Contributions made to any electoral trust by any person, except local authority and every artificial juridical person wholly or partly funded by the Government, shall be wholly deductible.

B Corporate Taxation

13. Amendments in Tax Holiday clauses-

- (i) Sunset clause extended by one year more for undertakings in Free Trade Zones and 100% Export Oriented Units upto financial year ended March 31, 2011. The various units under the Software Technology Park of India (STPI) scheme now get another year of exemption u/s 10A/ 10B.
- (ii) The lacunae arising in computing the tax exemption available to units in Special Economic Zones (SEZ) u/s 10AA has now been proposed to be rectified. Earlier while computing the exemption the total turnover of the business of the assessee was taken instead of the total turnover of the business of the undertaking.
- (iii) The sunset clause for undertakings u/s 80-IA engaged in the generation or generation and distribution of power has been extended by an additional year and now the 100% deduction is available upto the financial year ended March 31, 2011.
- (iv) Similarly, the sunset clause for undertakings u/s 80-IA engaged in reconstruction or revival of power generating plants has been extended upto the financial year ended March 31, 2011.
- (v) It has been clarified that the 100% tax deduction available to undertakings engaged in the infrastructure sector covered u/s 80-IA does not include works contractors engaged by such undertakings for execution

of a works contract in the infrastructure sector.

- (vi) The tax holiday available u/s 80-IB to undertakings engaged in commercial production or refining of mineral oils has been extended to all private companies also as well as to assessee engaged in commercial production of natural gas in blocks licensed under the NELP-VIII of the Government of India.
- (vii) The eligibility conditions applicable for availing the deduction u/s 80-IB (10) available for undertakings developing and building housing projects having a certain maximum built up area (i.e. group housing for mid income group) is proposed to be increased by inserting the following additional conditions:-
 - a. Not more than one residential unit in the housing project be allotted to any person not being an individual. In other words, allotment of units to HUF, Firms, Companies is not permitted.
 - b. In case where residential unit in the housing project is allotted to a person being an individual, no other residential unit in such housing project be allotted to any spouse or minor children of such individual, nor to any HUF in which such individual is a karta, nor to any representative or nominee of such individual, spouse, minor or HUF.

14. **Research & Development Deduction-** A deduction of 150% is proposed for any expenditure on scientific research (not being expenditure in the nature of cost of any land or building) on in house research and development facility as approved by the prescribed authority where a company is engaged in any business of manufacture or production of any article or thing, not being an article or thing specified in the list of the Eleventh Schedule. The eleventh schedule being a list of 25 articles or things currently, including such non-essential items such as wine, tobacco, cosmetics etc.

15. **Full deduction allowed for Capital Expenditure in specified business-** Deduction of whole of the expenditure incurred of capital nature wholly and exclusively for the purpose of the 'specified business' shall be allowable in the year in which the expenditure is incurred. The 'specified business' means (a) business of setting up and operating cold chain facility; (b) business of setting up and operating warehousing facility for storage of agricultural produce; and (c) business of laying and operating cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities. The said deduction is available for business which commence operations on or after 1st April 2009, except in the case of cross-country natural gas or crude or petroleum oil pipeline network retrospective effect has been given from 1st April 2007. No deduction u/s 80-IA shall be available for the

business of laying or operating cross country natural gas distribution network from 1st day of April 2009.

In the case of capital gains arising on sale of capital assets on which such deduction has been allowed, the cost of acquisition shall be deemed to be Nil.

In the case of loss incurred in respect of any 'specified business', such loss shall not be set off against any other profits except profits and gains of any other specified business. Further, the carry forward of such loss of a 'specified business' is permitted in perpetuity without any limit.

16. **Expenditure in cash of upto Rs. 35,000/- allowable in certain cases-** Expenditure made towards payment for plying, hiring or leasing goods carriages in cash or other than by account payee cheque of upto Rs. 35,000/- in aggregate per person per day shall no longer be disallowable. Earlier the disallowance was attracted if payment in cash or other than by account payee cheque exceeding Rs. 20,000/- per person per day was made.

17. **Profits and gains of Business to be taken on presumptive basis for certain small businesses-** It is proposed that with effect from the financial year commencing on the 1st day of April 2010 the profits and gains chargeable to tax of an 'eligible assessee' engaged in an 'eligible business' shall be deemed to be a sum equal to 8% of the total annual turnover.

Currently the presumptive basis of estimating profits and gains is applicable only to the businesses of construction, retail and plying, hiring, leasing of goods carriage. 'Eligible business' shall now include all businesses, except that of plying, hiring or leasing of goods carriage which shall continue to be covered under the earlier provisions of section 44AE, whose total annual turnover does not exceed Rs. 4 million. This measure of simplification is available to an 'eligible assessee' which means an individual, HUF and partnership firm, which is resident, but does not include an LLP. Further such an eligible assessee is not permitted to claim any exemption u/s 10A, 10AA, 10B, 10BA or any other deductions under Chapter VIA.

Further, the presumptive profits and gains from each goods carriage for an assessee engaged in the business of plying, hiring or leasing of goods carriage u/s 44AE is proposed to be increased as follows:-

- For each heavy goods vehicle an amount equal to Rs. 5,000/- for every month or part of the month, as increased from Rs. 3,500/- presently
- for each goods carriage, other than a heavy goods vehicle an amount equal to Rs. 3,500/- for every month or part of the month, as increased from Rs. 3,500/- presently

18. **Double Taxation Avoidance Agreements (DTAA) with specified territories possible now**- Double Taxation Avoidance Agreements (DTAAs) were hitherto possible to be entered

into by and between the Central Government and the government of any foreign country. It is proposed that with effect from the 1st day of October 2009 the Central Government may also enter into an agreement with the government of any 'specified territory' outside India. For the purpose of this section it is proposed that 'specified territory' means any area outside India which may be notified as such by the Central Government. Thru this amendment, the Central Government can now, subject to notification as a specified territory enter into agreements with say, Hong Kong which is a Special Administrative Region (SAR) of the Peoples Republic of China.

19. **Transfer Pricing simplifications proposed**- A clarification has been proposed in regards to the computation of the arms length price, where a margin of variance of 5% was permitted in the manner in which the variance would be computed. The said amendment is proposed with effect from 1st October 2009. Further, in the determination of the arm's length price, 'safe harbor rules' shall be considered. 'Safe harbor rules' is a new concept in India, which is expected on the lines adopted in many foreign countries, including Brazil and USA, however the detailed rules are awaited to be notified by the CBDT shortly. For the purpose of this section 'safe harbor rules' means circumstances in which the income tax authorities shall accept the transfer price declared by the assessee.

20. **MAT rate increased from 10 to 15%**- It has been proposed that the Minimum Alternate Tax (MAT) chargeable u/s 115JB be increased from 10% of 'book profits' of the company currently to 15% of 'book profits' of the company. 'Book Profit' means net profit as shown in the profit and loss account prepared in accordance with the provisions of Schedule VI to the Companies Act, 1956 as increased or reduced by certain adjustments, as specified in that section.

Further, it is proposed to insert a new clause so as to provide that if any provision for diminution in the value of any asset has been debited to the Profit & Loss Account, it shall be added for the purpose of computation of book profit.

21. **Interest on compensation taxable as Other Income**- It has been clarified that interest on compensation or enhanced compensation (a) shall be taxable as Other Income; (b) shall be deemed to be income of the year in which it is received and (c) shall be entitled to a maximum deduction of a sum equal to 50% of such income

22. **Definition of Charitable Purpose enhanced and certain relief for anonymous donations-**

'Charitable purpose' now is also proposed to include the preservation of environment (including watersheds, forest, wildlife) and preservation of monuments or places or objects of artistic or historic interest.

Further, anonymous donations which were earlier made completely taxable have now been given some relief as long as the said

anonymous donation does not exceed 5% of the total income of the assessee or Rs. 100,000/- whichever is higher, no taxability thereon shall be levied.

C Tax Administration

23. Dispute Resolution Panel for Transfer

Pricing matters introduced- it has been proposed with effect from 1st October 2009 to offer prior to framing of the final assessment order by the assessing officer an additional dispute resolution mechanism to the assessee with the objective of reducing litigation in the cases of assessment of transfer pricing and of any foreign company. Under the new proposal, the assessing officer shall forward a draft of the proposed order of assessment to the assessee if there is any variation of income or loss which is prejudicial to the interest of the assessee, and such assessee has an opportunity to file his acceptance or objections to such draft order before the Dispute Resolution Panel. The Dispute Resolution Panel shall issue such directions, based upon the objections received as it thinks fit for the guidance of the Assessing Officer, such directions being binding on the Assessing Officer. The Dispute Resolution Panel means a collegiums comprising of three commissioners of Income Tax constituted by the Central Board of Direct Taxes for this purpose.

24. Scope of Income taxable in Tax Scrutiny

cases widened- As per existing provisions applicable for assessment of income escaping assessment u/s 147, the Assessing Officer is obligated prior to issuing any notice u/s 148 to record in writing his reasons to believe that any income chargeable to tax has escaped

assessment. As a clarification it has now been proposed to permit the Assessing Officer to assess or reassess the income in respect of any issue, which has escaped assessment and such issue comes to his notice subsequently in the course of proceedings under this section, notwithstanding that the reasons for such issue have not been included in the reasons recorded prior to issuance of notice.

25. Provisions for processing of statements of

TDS inserted- It has been proposed that the statements of tax deducted at source prepared by any deductor shall be processed, under a scheme of centralized processing of such statements. The said statement shall be processed to verify the sum deductible, the interest and refund due to the deductor.

26. Time barring for failure to deduct or pay-

It is proposed that with effect from 1st October 2009 no person who fails to deduct or pay the whole or any part of the tax as required to be withheld shall be deemed to be an assessee in default after the expiry of two years from the end of the financial year in which the statement of tax deduction at source has been filed or four years from the end of the financial year in which payment is made or credit is given, in any other case. Further, the limitation period in respect of payments made on or before the 1st day of April 2007 shall be 31st day of March 2011.

27. Requirement to furnish the PAN-

It is proposed to insert a new provision in regard to

the obligation of the deductee, being a person entitled to receive any sum or income or amount on which tax is deductible to furnish his Permanent Account number (PAN) to the deductor, failing which tax shall be deducted at the higher of the following rates:-

- (i) At the rate specified in the relevant provision
- (ii) At the rate or rates in force
- (iii) At the rate of 20%

28. **Clarification on imposition of penalty in certain cases of Search**- It is proposed with retrospective effect from 1st June 2007 to amend the explanation 5A to section 271 dealing with penalty in the course of a search so as to clarify that where the return of income for such previous year has been furnished before the date of search but such income has not been declared therein, in such cases the assessee shall for the purpose of imposition of penalty be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income.

29. **Amendment in the manner of service of notice generally**- It is proposed that with effect from 1st October 2009 the service of notice or summon or requisition or order or any other communication may be made by delivering or transmitting a copy in the manner provided in the Code of Civil Procedures for the purpose of service of summon or in the form of any electronic record as provided in the Information technology Act, 2000 or by any other means of

transmission, including e-mail as may be provided by rules made by the Board.

30. **Allotment of Document Identification**

Number- It is proposed that with effect from 1st October 2010 every income tax authority shall allot a computer generated Document Identification Number (DIN) in respect of every notice, order, letter or any correspondence issued by him to any other income tax authority or assessee. Quoting of such DIN shall be mandatory in the absence of which, the said correspondence shall be treated as invalid and never to have been received or issued.

31. **Power to withdraw approval**- it is proposed that with effect from 1st day of October 2009 that an income tax authority who has been conferred the power to grant approval to any assessee, may withdraw such approval at any time although such provision to withdraw such approval has not been specifically provided for in such section. The withdrawal of approval shall be granted after giving reasonable opportunity of showing cause and recording the reasons for doing so.

32. **New TDS on Contractors section**- It has been proposed to substitute with effect from 1st October 2009 the existing section 194C with a new section. The main changes introduced in the new section are as follows:-

- (i) that if the payee or deductee is an individual or a HUF tax withholding shall be at a rate of 1% and at the rate of 2%

for any other person, on payment to a resident contractor for carrying out any work.

- (ii) that where any sum is paid or credited for carrying out any work, tax shall be deducted at source on the invoice value excluding the value of material, if such value is mentioned separately in the invoice or on the whole of the invoice value if the value of the material is not mentioned separately.
- (iii) That no withholding of tax shall be done in case of payment for plying, hiring or leasing goods carriages provided that the contractor provides his PAN.
- (iv) The inclusive definition of 'work' has been expanded to also include manufacturing or supplying a product according to the requirements or specifications of a customer using the material purchased from such customer

33. Reduction in tax withholding rate on rental

income- it is proposed with effect from 1st October 2009 to reduce the withholding tax rates as follows:-

- (i) 2% for use of plant or machinery or equipment as compared to 10% earlier
- (ii) 10% for use of land or building or land appurtenant to a building or furniture or fittings for all payees from 15% earlier when payee was an individual or HUF and from 20% earlier where payee was a person other than an individual or HUF.

D Fringe Benefit Tax:

The following major changes have been proposed in the provisions of FBT:-

- ❖ The provisions of Chapter XII-H on Income Tax on Fringe Benefits shall not apply with effect from the financial year commencing on 1st April 2009. In other words, FBT has been given a quick burial.

However, since the due date for the first installment of payment of advance tax in respect of fringe benefit was 15th June for all companies, companies which have already made payments would be advised to claim refunds after this Finance Bill (No 2), 2009 receives the Presidential assent and becomes an Act.

II. **INDIRECT TAXES:**

A **Excise Duty**

1. The changes in excise duty rates on individual items is stated hereunder in tabular form:

Respite in Excise Duty Rates

Goods	Existing Rate	New Rate
Specific component of excise duty applicable to large cars/utility vehicles of engine capacity 2000cc and above	Rs.20,000/- per vehicle	Rs.15,000 per vehicle
Petrol driven trucks/lorries	20%	8%
chassis of Petrol driven trucks/lorries	20% + Rs.10000'	
Special Boiling Point spirits	14% +Rs. 15 per litre	14%
Naphtha	14% +Rs. 15 per litre	14%
Petrol intended for sale with a brand name	'6% + Rs.13 per litre'	Rs.14.50 per litre

Diesel intended for sale with a brand name	6% + Rs.3.25 per litre	Rs.4.75 per litre
Branded articles of jewellery	2%	Nil

Duty exempted

- 1) Duty paid High Speed Diesel blended with upto 20% bio-diesel has been fully exempted from excise duties.
- 2) An optional excise duty exemption has been provided to tops of manmade fibre manufactured from duty paid tow using 'tow-to-top' process at par with tops manufactured from duty paid staple fibre.
- 3) Full exemption from excise duty has been provided on goods of Chapter 68 manufactured at the site of construction for use in construction work at such site.
- 4) Excise duty exemption on 'recorded smart cards' and 'recorded proximity cards and tags' has been made optional. Manufacturers have the option to pay the applicable excise duty and avail the credit of duty paid on inputs.

- 5) EVA compound manufactured on job work for further use in manufacture of footwear has been exempted from excise duty.
- 6) Benefit of SSI exemption scheme has been extended to printed laminated rolls bearing the brand name of another person by excluding this item from the purview of the brand name restriction.
- 7) On packaged or canned software, excise duty exemption has been provided on the portion of the value which represents the consideration for transfer of the right to use such software, subject to specified conditions.

Polyester chips	4%	8%
Acrylonitrile	4%	8%
Man-made and natural fibres other than pure cotton, beyond the fibre and yarn stage,	4%	8%

*The excise duty rate on items currently attracting 4% duty has been increased to 8% with the following major exceptions:

- Specified food items including biscuits, sherbats, cakes and pastries
- Drugs and pharmaceutical products falling under Chapter 30
- Medical equipment
- Certain varieties of paper, paperboard and articles thereof
- Paraxylene
- Power driven pumps for handling water
- Footwear of RSP exceeding Rs.250 but not exceeding Rs.750 per pair
- Pressure cookers
- Vacuum and gas filled bulbs of RSP not exceeding Rs.20 per bulb
- Compact Fluorescent Lamps
- Cars for physically handicapped persons

Duty Restored

The scheme of optional excise duty of 4% for pure cotton has been restored.

Increase in excise Duty Rate

From 4% to 8%

Goods	Existing Rate	New Rate
All items currently attracting 4% duty*	4%	8%*
Manmade fibre and yarn	4%	8%
PTA and DMT	4%	8%

B **Service Tax**

2. Service Tax rate remains unchanged.
3. Additional Services liable to Service Tax - Service providers of the following services shall attract service tax:
 - a. Service provided in relation to transport of goods by rail
 - b. Service provided in relation to transport of (i) coastal goods; and (ii) goods through Inland Water including National Waterways
 - c. Legal consultancy service
 - d. Cosmetic and plastic surgery service

The above changes will come into effect from a date to be notified, after the enactment of Finance (No. 2) Bill, 2009.

4. Scope of Specified Taxable Services amended:
 - a. The definition of Business Auxiliary Service (BAS) is being amended so as to provide that only those processes, which result in the manufacture of 'excisable goods' (as defined in the Central Excise Act) are excluded from the purview of BAS.
 - b. The definition of 'Information Technology Software Service' is being amended to replace the word 'acquiring' with the word 'providing' [appearing in Sl. No. (iv) and (v) of the definition]. The amendment is being given retrospective effect from 16.05.2008.

- c. The definition of stock-broker (in stock-broker service) is being amended to exclude sub-broker from its ambit. As a consequence, sub-brokers will be outside the purview of service tax.

The above changes will come into effect from a date to be notified, after the enactment of Finance (No. 2) Bill, 2009.

5. Amendments in the Rules and existing Notifications-

- a. The scope of notification No. 1/2002-ST dated 01.03.2002 is being enlarged by extending the applicability of service tax provisions to installations, structures and vessels in the entire Continental Shelf of India and Exclusive Economic Zones of India.

This amendment has been given vide Notification No. 21/2009-ST, dated 07-07-2009

- b. Rule 6 (3) of the Cenvat Credit Rules, 2004 is being amended to prescribe that a provider of both taxable and exempted services, who does not maintain separate accounts of inputs, shall pay an amount

equal to 6% of the value of exempted services instead of 8%.

This amendment has been given vide Notification No. 16/2009 – Central Excise (N.T.), dated 07-07-2009

- c. Rule 3 (5B) of the Cenvat Credit Rules, 2004 is being amended so as to provide that a service provider shall pay back the amount of credit taken on inputs/capital goods fully written off.

This amendment has been given vide Notification No. 16/2009 – Central Excise (N.T.), dated 07-07-2009

- d. Explanation provided in the Works Contract Rules, 2007 is being modified so as to allow the benefit of optional composition scheme only to such works contracts where the taxpayer declares the entire value of goods (whether supplied under any other contract for a consideration or otherwise) and services used in the execution of the works contract as the 'gross value' charged for the works contract. This restriction would not apply to current works contracts where either the

execution has commenced or any payment has been made on or before 07.07.2009.

This amendment has been given vide Notification No. 23/2009-ST, dated 07-07-2009

- e. Retrospective effect is being given to notification No. 1/2009-ST dated 5.1.2009 (relating to Goods Transport Agency service) from 01.01.2005. This provision is being given effect to through the Finance (No. 2) Bill, 2009 and will come into effect from the date of enactment of the said Bill.

6. The following services have been exempted:
- Exemption from service tax is being provided to inter-state or intra-state transportation of passengers in a vehicle bearing 'Contract Carriage Permit' with specified conditions. **This exemption has been given vide Notification No. 20/2009-ST, dated 07-07-2009;**
 - Exemption from service tax (leviable under Club or Association Service) is being provided to the Federation of Indian Export Organizations (FIEO) and specified Export Promotions Councils. The exemption is valid till 31.03.2010. **This exemption has been given vide**

Notification No. 16/2009-ST, dated 07-07-2009

- c. Exemption from service tax (leviable under banking and other financial services or under foreign exchange broking service) is being provided to inter-bank purchase and sale of foreign currency between scheduled banks.

This exemption has been given vide Notification No. 19/2009-ST, dated 07-07-2009

7. Refund to Exporter has new meaning-

Following are some of the salient features of the revamped refund scheme,

- Terminal Handling Charges' is being added to the list of eligible services.
- The time period for filing a refund claim is being increased to one year from the date of export. The condition for filing refund claims once in a quarter is being dispensed with. Now the exporter can file a refund claim anytime after each export shipment.
- A simplified format is being prescribed for filing refund claims.
- Self-certification is being introduced to ensure faster sanction and disbursement of refunds. In a case, where total amount of refund claim does

not exceed 0.25% of the total f.o.b. value of exports under a claim, a self-certification by the exporter on the relevant documents to the effect that: (a) the eligible services have been received by him; (ii) the service tax payable thereon has been reimbursed; and (iii) such services have been used for the export, would be sufficient. The refunds shall be granted within one month without any pre-audit.

- In a case, where amount of refund claim exceeds 0.25% of the f.o.b. value of exports, the documents submitted by the exporter should be certified by the chartered accountant, who audits his annual accounts. On the basis of such certification, the refund claim shall be sanctioned within one month without any pre-audit.

Notification No. 41/2007-ST dated 06.10.2007 has been suppressed vide Notification No. 17/2009-ST, dated-07-07-2009

8. Exemption of two taxable services for Exporters- Notification No. 41/2007-ST dated 06.10.2007 provides for refund of service tax paid on services, which though not in the nature of input services, are relatable to export of goods. The scheme is being revamped to ensure speedier grant of refunds to the exporters. Vide **Notification No. 18/2009-ST, dated 07-07-2009** two taxable services, namely, 'Transport of goods by road' and 'Commission paid to foreign agents' have been exempted from the levy of service tax, if the exporter is liable to pay service tax on reverse charge basis. However, as the present cap of 10% on commission agency charges has been retained, the exporter will have to pay service tax on the amount of commission which is in excess of 10%.

C Customs Duty

1. Respite in Customs Duty Rates- The following major changes have been made in the Customs Duty front:-

Customs duty goes down

From 15% to 10%

Goods	Existing Rate	New Rate
Cotton waste	15%	10%
Wool waste	15%	10%

From 10% to 5%

Goods	Existing Rate	New Rate
10 specified life saving drugs/vaccine and their bulk drugs	10%	5%
LCD Panels for manufacture of LCD televisions	10%	5%

From 7.5% to 5%

Goods	Existing Rate	New Rate
specified heart devices, namely artificial heart and PDA/ASD occlusion device	7.5%	5% with Nil CVD (by way of excise duty exemption).
Permanent magnets for PM synchronous generator above 500 KW used in wind operated electricity generators	7.5%	5%
'Mechanical Harvester' for coffee plantation	7.5%	5%*

* CVD on such harvesters has also been reduced from 8% to nil, by way of excise duty exemption.

From 7.5% to 2.5%

Goods	Existing Rate	New Rate
Bio-diesel	7.5%	2.5%

From 5% to 2%

Goods	Existing Rate	New Rate
Rock phosphate	5%	2%

From 5% to Nil

Goods	Existing Rate	New Rate
Unworked corals	5%	Nil

Customs duty goes up

Goods	Existing Rate	New Rate
Serially numbered gold bars (other than tola bars) and gold coins	Rs.100 per 10 gram	Rs.200 per 10 gram
Other forms of gold	Rs.250 per 10 gram	Rs.500 per 10 gram.
Silver	Rs.500 per Kg.	Rs.1000 per Kg

Exemption

- Full exemption from 4% special CVD on parts for manufacture of mobile phones and accessories has been reintroduced for one year, upto 06.07.2010.
- At present, specified raw materials/inputs imported by manufacturer-exporters of sports goods are fully exempt from customs duty, subject to specified conditions. The list of such items has been expanded by including five additional items.
- Specified raw materials and equipment imported by manufacturer-exporters of leather goods, textile products and footwear industry are fully exempt from customs duty, subject to specified conditions. The list of such items has been expanded by including additional items.
- On packaged or canned software, CVD exemption has been provided on the portion of the value which represents the consideration for transfer of the right to use such software, subject to specified conditions.
- Customs duty on inflatable rafts, snow-skis, water skis, surf-boats, sail-boards and other



water sports equipment has been fully exempted.

- CVD exemption on Aerial Passenger Ropeway Projects has been withdrawn. Such projects will now attract applicable CVD.

Exemption withdrawn

- Customs duty exemption on Set Top Box for television broadcasting has been withdrawn and 5% customs duty imposed.
- Concessional customs duty of 5% on specified machinery for tea, coffee and rubber plantations has been reintroduced for one year, upto 06.07.2010.

D Central Sales Tax

2. Goods and Service Tax (GST) proposed as a dual GST with a Central and State levy being prepared for introduction of GST from April 1, 2010.

III. OTHER MATTERS:

- ❖ Commodities Transaction Tax (CTT) is proposed to be scrapped.

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