



Brahmayya Bulletin

March 2016

Editorial

Union Budget is actually a vision for macroeconomic policy promoting overall economic growth, so goes an economics saying. In that sense, the vision for India's Union Budget 2016-17 is positively and progressively different from the Budgets of the last few years as it focuses more on strengthening rural social sector and infrastructure sector besides introducing tax reforms to create a more rationalised, simplified and litigation free tax regime, and counter tax evasion so as to facilitate an economically vibrant India. Overall, it's a progressive and growth-oriented Budget, which has kept economic targets realistic and has aimed at providing a level-playing field to domestic manufacturers to facilitate Make in India, fiscal consolidation and fiscal prudence.

A redeeming feature is that it has improved upon the Revenue Deficit target from 2.8% to 2.5% of GDP in 2015-16 while the fiscal deficit in 2015-16 and 2016-17 have been retained at 3.9% and 3.5% of the GDP respectively.

MCA has continued to strengthen its reporting compliances. Having issued CARO, 2015 with substantial modifications to the erstwhile Order, further modifications are made and CARO, 2016 has been issued. With Ind AS implementation and consequential financial statements being presented just around the corner, MCA has issued framework for Banks, Insurance Companies and NBFC's.

A detailed Roadmap has also been identified for the implementation of Ind AS, and this strengthens the Government's agenda to continue the convergence process.

CBDT has notified all the forms for filing of Income Tax returns, well on time to facilitate ease in the forms processing mechanism.

"Learn from yesterday, live for today, hope for tomorrow. The important thing is not to stop questioning" - Albert Einstein

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Ministry of Corporate Affairs (MCA)

Notification No. G.S.R. 290(E) - Dated 10th March 2016

MCA has amended the Companies (Share Capital and Debentures) Amendment Rules, 2016) rules to provide that where the audited accounts of a company are more than 6 months old, the calculations with respect to buyback shall be on the basis of unaudited accounts not older than 6 months from the date of offer document which are subjected to limited review by the auditors of the company

Notification No. G.S.R. 358(E) - Dated 29th March 2016

Under Companies (Share Capital and Debentures) 2nd Amendment Rules, 2016, in rule 17, after sub-rule (5), a proviso is inserted stating that the offer for buy back may remain open for a period less than fifteen days, provided all the members of a company agrees on it.

Order no. S.O. 1228(E) - Dated 29th March 2016

MCA has issued the aforesaid order in supersession of the Companies (Auditor's Report) Order, 2015 for the auditors to report under Sec.143 (11) of the Companies Act 2013. The applicability thresholds of CARO for private companies have been relaxed and on issue of report on consolidated financial statements. The new CARO, 2016 has certain additional reporting requirements.

Insights on CARO, 2016 has been dealt with as a separate article as part of "Our News" section in our Website.

Notification no. GSR 365(E) - Dated 30th March 2016

MCA has amended the Indian Accounting Standards Rules to provide for a compliance framework for NBFCs, Banking Companies and Insurance Companies in India. Compliance with Indian Accounting Standards for NBFCs is also being brought out in a phased manner. Applicability of these standards to individual entities within a group and also for the consolidated financial statements has been separately prescribed. Various amendments with respect to opening balance sheet and other clarificatory amendments have also been issued.

Central Board of Direct Taxes (CBDT)

Notification No. 13/2016 - Dated 3rd March 2016

In exercise of the powers conferred by Section 295 read with Section 32, the Central Board of Direct Taxes has amended the Income Tax Rules, 1962 and has now included oil wells under plant and machinery head in new Appendix I. The Amendment shall come into force on the 1st day of April 2016.

Circular No. 07/2016 - Dated 7th March 2016

The board has decided that a consortium arrangement for executing EPC/Turnkey contracts which has following attributes may not be treated as an AOP:

- a. Each member is independently responsible for executing its part of work through its own resources and also bears the risk of its scope of work
- b. Each member earns profit/incur losses, based on performance

- c. The men and material used for any area of work are under risk and control of respective consortium member
- d. The control and management of the consortium is not unified and common management is only for the inter-se coordination is not unified and common management is only for the inter se coordination between the consortium members.

Notification No. 18/2016 - Dated 17th March 2016

Capital asset being a shares or debentures of a company, which becomes the property of the assessee in the circumstances mentioned in Section 47(x), shall for the purpose of determining of period of holding of asset included the period for which the bond, debenture, debenture-stock or deposit certificate, as the case may be, was held by the assessee prior to the conversion. Section 47(x) provides that any transfer by way of conversion of bonds or debentures, debenture-stock or deposit certificates in any form, of a company into shares or debentures of that company shall not be regarded as transfer for the purposes of levy of capital gains tax

Press Release - Dated 11th March, 2016

The Central Board of Direct Taxes had issued directions to the field offices that taxpayers whose tax has been deducted at source but not deposited to the Government's account by the deductor, will not be asked to pay the demand to the extent tax has been deducted from his income. A letter to this effect was issued on 1st June 2015. Through this letter an embargo had been put on direct demand against the assessee

in cases where the tax demand is on account of tax-credit mismatch due to non-payment of TDS to the Government account by the deductor. Instances have come to the notice of the Board that these directions are not being strictly followed in field offices. An Office Memorandum has therefore been issued on reiterating the contents of the letter. It has been re-emphasised that the assessing officers shall not enforce demands created on account of mismatch of credit due to non-payment of TDS amount to the credit of the Government by the deductor.

Notification No. 24/2016 - Dated 30-03-2016

The CBDT has notified the forms for filing of Income-tax returns for AY 2016-17. With the passage of Finance Bill, 2015, wealth tax is no longer leviable with effect from AY 2016-17. Taxpayers are, therefore, not required to file a wealth tax return from AY 2016-17 onwards. While abolishing the charge of Wealth-tax, the Finance Minister also announced that information which was required to be furnished in the return of wealth will now form a part of the Income-tax return. Individuals and HUFs with income above a specified limit, filing returns in ITR-3 and ITR-4 are already required to furnish information of their assets and liabilities in their annual return of income.

With AY 2016-17, Individuals and HUFs filing their returns of income in ITR-1, ITR-2, ITR-2A and ITR-4S, having income exceeding Rs.50 Lakhs will now be required to furnish information regarding assets and liabilities in Schedule AL of the relevant ITR form. These changes in ITR forms are in tune with the announcement made in the Budget Speech 2015.

Further, Rule 12 has been amended to provide that Firm other than a limited liability partnership firm deriving business income where such income is computed in accordance with Section 44AD or 44AE is also an eligible assessee to file ITR 4S. Also, assessee required to file return under Section 139(4F) i.e. every investment fund referred to in Section 115UB, which is not required to furnish return of income or loss under any other provisions of Section 139, shall furnish the return of income in respect of its income or loss in every previous year in form ITR 7.

Letter F. No. 279/Misc./M-142/2007 - ITJ (Part) - Dated 8th March 2016

The monetary limits for filing appeals before the Income Tax Appellate Tribunals and High Courts were raised to Rs.10 Lakhs and Rs. 20 Lakhs, respectively, by an earlier circular. CBDT has clarified that the monetary limit apply equally to cross objections under Section 253(4) of the Act. Cross objections below this monetary limit, already filed, should be pursued for dismissal as withdrawn/ not pressed. Filing of cross objections below the monetary limit may not be considered henceforth. Similarly, references to High Courts below the monetary limit of Rs. 20 Lakhs should be pursued for dismissal as withdrawn/not pressed. References below this limit may not be considered henceforth.

Central Board of Excise and Customs (CBEC) – Excise

Notification No. 13/2016-Central Excise (NT) – Dated 1st March, 2016

The CENVAT Credit Rules, 2004, is amended effective 1st April 2016, with the following key changes:

Equipment and appliance used in an office located within a factory are being included in the definition of capital goods.

CENVAT credit on inputs and capital goods used for pumping of water, for captive use in the factory, is being allowed even where such capital goods are installed outside the factory.

All capital goods having value up to Rs.10,000 per piece are being included in the definition of “inputs” which would enable an assessee to take whole credit on such capital goods in the same year in which they are received.

- In order to allow shipping lines to take credit on inputs and input services, service by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India is being excluded from the definition of “exempted service”.
- Validity of the permission given by an Assistant Commissioner or Deputy Commissioner to a manufacturer of the final products for sending inputs or partially processed inputs outside his factory to a job-worker and clearance there from on payment of duty has been extended to 3 years as against present one year.
- A manufacturer of final products or provider of output services shall submit to the Superintendent of Central Excise an annual return for each financial year, by the 30th day of November of the succeeding year.
- FIFO method of utilising credit as specified in Rule 14(2) has been done away with. Now, whether a particular credit has been utilised or not shall be ascertained by examining whether during the period under consideration, the minimum balance of credit in the account of the assessee was equal to or more than the disputed amount of credit.

Notification No. 13/2016-Central Excise (NT) - Dated 1st March, 2016

An Input Service Distributor (ISD) can now distribute the input service credit to an outsourced manufacturing unit also in addition to its own manufacturing units.

- As against the present method of distribution of credit based on turnover, now an ISD will distribute CENVAT credit in respect of service tax paid on the input services to its manufacturing units or units providing output service or to outsourced manufacturing units subject to, inter alia, the following conditions:
 - (i) Credit attributable to a particular unit shall be attributed to that unit only.
 - (ii) Credit attributable to more than one unit but not all shall be attributed to those units only and not to all units.
 - (iii) Credit attributable to all units shall be attributed to all the units.
- Credit shall be distributed pro rata on the basis of turnover as is done in the present rules.
- An outsourced manufacturing unit shall maintain separate account of credit received from each of the ISD and shall use it for payment of duty on goods manufactured for ISD concerned.
- Provisions of Rule 6 will apply to units availing the CENVAT credit distributed by ISD and not to the ISD.
- Now, manufacturers with multiple manufacturing units are allowed to maintain a common warehouse for inputs and distribute inputs with credits to the individual manufacturing units

Notification No. 14/2016-Central Excise (N.T) - Dated March 1, 2016

CBEC amended procedure for filing of refund claim of CENVAT credit.

An application in Form A for claiming the refund shall be filed:

- (i) in case of manufacturer - before the expiry of 1 year from the relevant date as per Section 11B of the Central Excise Act, 1944;
- (ii) in case of service provider - before the expiry of 1 year from the date of:
 - (a) receipt of payment in convertible foreign exchange, where provision of service had been completed prior to receipt of such payment; or
 - (b) Issue of invoice, where payment for the service had been received.

Notification No. 15/2016-Central Excise (N.T) - Dated 1st March, 2016

CBEC has provided that w.e.f. 1st April 2016 for delay in payment of excise duty, interest at the rate 15% p.a. would be payable as against earlier rate on 18% p.a.

Notification No. 19/2016-Central Excise (N.T.) - Dated 1st March, 2016

The Commissioner of Central Excise may allow single registration for two or more premises of the same factory are located in a close area, if:

- these premises are within the jurisdiction of a Central Excise Range;
- the process undertaken there are interlinked;
- the units are not operating under any of the area based exemption notifications;

- proper accounting of the movement of goods from one premise to other and such other conditions and limitations as prescribed are being followed.

Notification No. 21/2016-Central Excise (N.T) - Dated 1st March, 2016

CBEC has provided for the following changes in procedures & conditions relating to rebate of duty on excisable goods used in manufacture/processing of export goods, w.e.f. 1st March 2016:

- The declaration regarding the finished goods proposed to be manufactured or processed would now be accompanied by a Chartered Engineer's certificate in respect of correctness of the ratio of input and output in accordance with the Standard Input Output Norms notified by Director General of Foreign Trade, Ministry of Commerce.
- The Assistant/Deputy Commissioner of Central Excise will grant permission to the applicant for manufacture or processing and export of finished goods before commencement of export on the basis of certificate issued by the Chartered Engineer and the declaration filed. In case of doubt in respect of the correctness of such declaration, they may visit the factory and verify correctness. The earlier requirement of total verification by Assistant/Deputy Commissioner of Central Excise has been done away with.
- The manufacturer or processor may procure materials from registered dealers but no CENVAT credit will be availed by him.
- The provisions of CENVAT Credit Rules, 2004 would apply consistently for entire procedure.

- The claim for rebate of duty paid on materials use in the manufacture or processing of goods shall be lodged before expiry of one year from the relevant date with the Assistant/Deputy Commissioner of Central Excise.

Central Board of Excise and Customs (CBEC) – Service Tax

Notification No. 09/2016-Service Tax - Dated 1st March, 2016

CBEC has amended Mega Exemption Notification, effective 1st April 2016 that specifies exemption and withdrawal of exemption from service tax liability on various services provided by the assesses.

Notification No. 10/2016-Service Tax - Dated 1st March, 2016

To resolve the disputes in regards to new levy, CBEC has inserted an explanation to Rule 5 (Payment of tax in case of new services) of Point of Taxation Rules, 2011 to provide that Rule 5 would be applied in case of new levy on services and that the exclusion to pay service tax on new levy or tax shall only be upon fulfilment of conditions provided in the said rule. i.e. there shall be no tax liability:

- To the extent the invoice is raised and payment is received before such new tax becomes taxable;
- If the payment has been received before such new service becomes taxable and invoice is raised within 14 days of the date when such new service becomes taxable.

Notification No. 13/2016-Service Tax - Dated 1st March, 2016

The rate of interest for delayed payment of any amount as service tax would be as under:

Situation	Rate p.a.
Collection of any amount as service tax but failing to pay the amount so collected to the credit of the Central Government on or before the date on which such payment becomes due	24%
Other than in situations covered above	15%

Notification No. 18/2016-Service Tax - Dated 1st March, 2016

In the following cases, the service recipient shall pay the tax:

- The taxable services provided or agreed to be provided by a selling or marketing agent of lottery tickets in relation to a lottery in any manner to a lottery distributor or selling agent of the State Government under the provisions of the Lottery (Regulations) Act, 1998.
- The taxable services provided or agreed to be provided by a firm of advocates or an individual advocate other than senior advocate, by way of legal services.
- in respect of services provided or agreed to be provided by Government or local authority excluding,- (1) renting of immovable property, and (2) services specified in sub-clauses (i), (ii) and (iii) of clause (a) of section 66D.

Notification No. 19/2016-Service Tax - Dated 1st March, 2016

CBEC has amended Service Tax Rules, 1994 effective 1st April 2016, as follows:

- Rule 6 of the Service Tax Rules, 1994 to be amended to extend the benefit of quarterly payment of service tax to One Person Company (OPC) whose aggregate value of services provided is up to Rs. 50 lakh in the previous financial year and an HUF. Further, payment of service tax on receipt basis is also extended to such OPC.
- Presently, in cases where the amount allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service, an insurer is required to pay tax @ 3.5% of the premium charged from policy holder in the first year and 1.75% of the premium charged from policy holder in the subsequent years. Now, Rule 6(7A) to be amended to provide that the service tax liability on single premium annuity (insurance) policies is being rationalised and the effective alternate service tax rate (composition rate) is being prescribed at 1.4% of the total premium charged, in cases where the amount allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service.
- Every assessee would be required to submit an annual return for the financial year to which the return relates, in specified format by the 30th day of November of the succeeding financial year. The annual return may be revised within a period of one month from the date of submission of the said annual return. Upon delay in filing the return,

an assessee would be required to pay a penalty calculated at the rate of Rs.100 per day for the period of delay in filing of such return, subject to a maximum of Rs.20,000.

Notification No. 21/2016-Service Tax – Dated 30th March, 2016

CBEC has inserted a proviso in Rule 7 (Determination of Point of taxation in case of specified services or persons) of Point of Taxation Rules, 2011 to provide that where there is a change in provisions relating to the services taxed under reverse charge/partial reverse charge (service taken out of reverse charge application or change in % payable by recipient under reverse charge) but the service has already been provided, invoice has been issued and the payment has not been made, then in such cases the point of taxation would be the date of issuance of invoice.

Securities and Exchange Board of India (SEBI)

SEBI/HO/CFD/DIL/CIR/P/2016/47 – Dated 31st March 2016

MCA had notified the Companies (Indian Accounting Standards) Rules, 2015 on February 16, 2015 providing for a revised roadmap on implementation of Indian Accounting Standards which stipulates implementation of Ind AS in a phased manner beginning from accounting period 2016-17. In line with the said notification, SEBI has also clarified about the disclosure of financial information in accordance with Ind AS in the offer documents in a phased manner.

Details of the Roadmap laid by SEBI has been dealt with as a separate article as part of “Our News” section in our Website.

Reserve Bank of India (RBI)

Master Direction No. DBR.Dir.No.85/13.03.00/2015-16 - Dated 3rd March 2016

RBI has released these set of directions which comprehensively cover all regulations pertaining to interest rates on advances and deposits.

These directions are applicable to Scheduled Commercial Banks only at present, including Regional Rural Banks, licensed to operate in India by Reserve Bank of India. These directions shall not be applicable to operations of foreign branches of Indian banks.

Master Circular No. DBR.No.BP.BC.83/21.06.201/2015-16 - Dated 1st March 2016

RBI has taken a review of the Basel III regulations and revised guidelines in this regard have been issued. It has been decided to align, to some extent, the current regulations on treatment of these balance sheet items, for the purpose of regulatory capital, with the BCBS guidelines. The said amendments deal with treatment of revaluation reserves, treatment of foreign currency translation reserve and treatment of deferred tax assets for the purpose of CET 1 capital.

Foreign Exchange Management Act (FEMA)

A.P. (DIR Series) Circular No. 58 - Dated 31st March, 2016

The extant FDI Policy for Insurance sector has been reviewed by the Government of India and accordingly it has been decided to enhance the limit of foreign investment in Insurance Sector from 26% to 49% under automatic route subject to terms and conditions which have been notified through Notification No. 366/2016-RB dated March 30, 2016

and making amendment to Schedule 1 (existing entry F7 – Insurance sector) in the Foreign Exchange Management (Transfer or Issue of Security by a person resident outside India), Regulations, 2000.

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