



# **UNION BUDGET 2017**

**For Private Circulation Only**

© 2017 Lunawat & Co.

All Rights Reserved

*Disclaimer :*

Information in this document is intended to provide only a general outline of the subjects covered. We recommend that you seek professional advice prior to initiating action on specific issues. Lunawat & Co. does not take any responsibility for any loss arising from any action taken or not taken by anyone using this material.

## INCOME TAX PROPOSALS

### Changes in Tax Rates (w.e.f. AY 2018-19)

Tax Rate %	Individuals HUF/ AOP/BOI	Senior Citizen Age $\geq 60$ and $< 80$	Senior Citizen Age $\geq 80$
0	Up to 2,50,000	Up to 3,00,000	Up to 5,00,000
5	2,50,001 to 5,00,000	3,00,001 to 5,00,000	-
20	5,00,001 to 10,00,000	5,00,001 to 10,00,000	5,00,001 to 10,00,000
30	Above 10,00,000	Above 10,00,000	Above 10,00,000

- For Domestic Companies, whose total turnover or gross receipts in the previous year 2015-16 does not exceed Rs. 50 Crores, tax rate shall be 25% plus applicable surcharge and cess.
- New levy of Surcharge @ 10% for Individuals, HUF, AOP, BOI and AJP, in case total income exceeds Rs. 50 Lacs but does not exceed Rs. 1 Crore.
- Rebate u/s 87A is to be reduced to Rs. 2,500/- (Earlier Rs. 5,000/-) for resident individuals having total income not exceeding Rs. 3.5 lacs (Earlier Rs. 5 Lacs)
- Section 115BBDA has been amended to include all the resident assessee except domestic company and certain funds, trusts, institutions, etc. having income by way of dividend in excess of Rs. 10 Lacs to be chargeable to tax @ 10% on gross basis.

### Tax Deduction at Source (TDS)

- Section 194-IB is proposed to be inserted where rent is payable to any resident by an individual or HUF (other than those covered under tax audit) exceeding Rs. 50,000/- for a month or part of month during the previous year. TDS is to be made @ 5% of such rent. The deductor shall not be required to obtain TAN. He shall be liable to deduct tax only once in a previous year. If no PAN is available of deductee, tax is to be deducted @ 20% but shall not exceed the amount of rent payable for the last month of the previous year. (w.e.f. 1<sup>st</sup> June, 2017)
- A new section 194-IC is proposed to be inserted to provide that in case any monetary consideration is payable under the joint development agreement as specified u/s 45(5A), tax @ 10% shall be deductible from such payment. (w.e.f. AY 2018-19)
- It is proposed to amend section 194J to reduce the rate of TDS to 2% from 10% in case of a person engaged only in the business of operation of call center. (w.e.f. 1<sup>st</sup> June, 2017)
- It is proposed to amend section 194LA to provide that no deduction shall be made where payment is made in respect of any award or agreement which has been exempted from levy u/s 96 (except those made u/s 46) of RFCTLARR Act. (Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013). (w.e.f. AY 2018-19)
- Section 194LC is proposed to amend to provide that the concessional rate of 5% TDS on interest payment will now be available in respect of borrowings made before 1<sup>st</sup> July, 2020. It is also proposed to extend the benefit of section 194LC to rupee denominated bond issued outside India before the 1<sup>st</sup> July, 2020.

- It is proposed to amend section 194LD to provide that the concessional rate of 5% TDS on interest to FIIs and QFIs on their investments in Government securities and rupee denominated corporate bonds will now be available on interest payable on or after 1<sup>st</sup> June, 2013 but before the 1st July, 2020 (earlier till 1<sup>st</sup> July 2017). (w.e.f. AY 2018-19)
- In the case of furnishing of information u/s 195(6) relating to payment to a non-resident, not being a company, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act, 'person responsible for paying' shall be the payer himself, or, if the payer is a company, the company itself including the principal officer thereof.
- It is proposed to amend section 197A for filing Form. No.15G/15H for non-deduction of tax at source in respect insurance commission referred in section 194D. (w.e.f. 1<sup>st</sup> June 2017)
- Non-allowability of expenditure due to non-deduction of tax as per provisions of section 40(a)(ia) shall also apply in computing income chargeable under the head "income from other sources". Disallowance introduced in section 58. (w.e.f. AY 2018-19)

### **Tax Collection at Source (TCS)**

- Section 206CC (on lines of section 206AA) is proposed to be inserted where any person (except non-residents) paying any sum, on which tax is collectable at source does not furnish his PAN then the tax shall be collected at higher of the following rates:
  - (i) twice the rate specified; or
  - (ii) at the rate of 5%.
- It is proposed to amend the provisions of section 206C to omit the provision relating to TCS on cash sale of jewellery exceeding Rs. 5 Lakhs. (w.e.f. 1<sup>st</sup> April, 2017)
- Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; local authority; a public sector company which is engaged in the business of carrying passengers are exempted from TCS on purchase of motor vehicles u/s 206C(1F) (w.e.f. AY 2018-19)

### **Exemptions**

- Exemption is proposed to be provided to partial withdrawal from National Pension System not exceeding 25% of the contribution made by the employee. (w.e.f. AY 2018-19)
- Income accruing or arising to a foreign company on account of sale of leftover stock of crude oil, if any, from a facility in India after the expiry of an agreement or an arrangement referred to in section 10(48A) shall be exempt subject to notified conditions (w.e.f. AY 2018-19)
- Specified Person referred to in clause (23AAA), Investor Protection Fund referred to in clause (23EC) or clause (23ED), Core Settlement Guarantee Fund referred to in clause (23EE) and any Board or Authority referred to in clause (29A) of section 10 shall be mandatorily required to furnish a return of income to avail exemption. (w.e.f. AY 2018-19)
- The amount of deduction referred to in section 10AA shall be allowed from the total income of the assessee before giving effect to the provisions of the section 10AA and the deduction u/s 10AA in no case shall exceed the said total income. (w.e.f. AY 2018-19)
- It is proposed to amend the provisions of section 13A to provide for additional conditions for availing the exemption from paying income-tax by a political party which are as under:

- No donations of Rs.2000/- or more is received otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system
- It shall not be required to furnish the name and address of the donors who contribute by way of electoral bond.
- It furnishes a return of income on or before the due date u/s 139(4B).

(w.e.f. AY 2018-19)

- Section 12A is proposed to be amended to provide that where a registered trust or an institution has, adopted or undertaken modifications of the objects which do not conform to the conditions of registration; fresh registration is required to be obtained within 30 days from date of such modification or adoption in prescribed form.
- Corpus donation made by a trust or institution u/s 11 to another trust or institution whose income is exempt u/s 11 or to a trust or institution whose income is exempt u/s 10(23C) shall not be treated as application of income. Similarly corpus donation made by a trust or institution u/s 10(23C) to another trust or institution whose income is exempt u/s 11 or to a trust or institution whose income is exempt u/s 10(23C) shall not be treated as application of income. (w.e.f. AY 2018-19)
- Charitable Trust / Institution registered u/s 12AA shall have to file its income-tax return within due date u/s 139 to avail exemption u/s 12A. (w.e.f. AY 2018-19)
- It is proposed to insert a new clause (37A) in section 10 to provide that in respect of an individual or HUF who was the owner of such land as on 2nd June, 2014, and has transferred such land under the land pooling scheme under Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015 capital gains arising from following transfer shall not be chargeable to tax:
  - Transfer of capital asset being land or building or both, under land pooling scheme.
  - Sale of Land Pooling Ownership Certificates received in lieu of land transferred under the scheme.
  - Sale of reconstituted plot or land within two years from the end of the financial year in which the possession of such plot or land was handed over.

## Deductions

- Deduction u/s 80CCD(1) in respect of contribution towards National Pension System trusts (NPS) cannot exceed 10% of salary in case of an employee or 10% of gross total income in case of other individuals. Now, the limit of 10% of gross total income has been increase to 20% in case of individual other than employee. (w.e.f. AY 2018-19)
- It is proposed that no deduction u/s 80CCG shall be allowed from AY 2018-19. However, an assessee who has claimed deduction for assessment year 2017-18 and earlier assessment years shall be allowed deduction till AY 2019-20 if he is otherwise eligible to claim the deduction. (w.e.f. AY 2018-19 onwards)
- No deduction shall be allowed u/s 80G in respect of donation of any sum exceeding Rs. 2000/- unless such sum is paid by any mode other than cash. (w.e.f. AY 2018-19)
- It is proposed to provide that, deduction under section 80-IAC can be claimed by an eligible start-up for any 3 consecutive AYs out of 7 years (currently it was 5 years) beginning from the year in which such eligible start-up is incorporated. (w.e.f. AY 2018-19)

- It is proposed to amend section 80-IBA so as to provide the following relaxations:–
  - The size of residential unit shall be measured by taking into account the “carpet area” and not the “built-up area”.
  - The restriction of 30 square meters on the size of residential units shall not apply to the place located within a distance of 25 kms from the municipal limits of the Chennai, Delhi, Kolkata or Mumbai.
  - The condition of period of completion of project for claiming deduction under this section shall be increased from existing 3 years to 5 years. (w.e.f. AY 2018-19)

### Capital Gains

- The base year for computation of indexed cost for the purposes of capital gains is proposed to be amended to 01.04.2001 from the earlier 01.04.1981. The fair market value as on 1st April, 2001 (where asset was acquired before 1.4.2001) and the cost of improvement shall include only those capital expenses which are incurred after 01.04.2001. (w.e.f. AY 2018-19)
- It is proposed to amend section 2(42A) in case of Immovable Property so as to reduce the period of holding from the existing 36 months to 24 months to qualify as long term capital asset. (w.e.f. AY 2018-19)
- Section 10(38) is proposed to be amended to provide that exemption for Long-Term Capital Gain on transfer of equity share acquired or on after 01.10.2004 shall be available only if the acquisition of share is chargeable to STT. It is also proposed to notify transfers for which the condition of chargeability to STT on acquisition shall not be applicable (could be IPO, FPO, Right Issue, Bonus, etc.). Earlier STT was required only in case of sale of shares. (w.e.f. AY 2018-19)
- New section 50CA is proposed to be inserted to provide that where consideration for transfer of share of a company (other than quoted share) is less than the Fair Market Value (FMV) of such share determined in accordance with the prescribed manner, the FMV shall be deemed to be the full value of consideration for the purposes of computing Capital gains. The income would be taxed in hands of seller [similar to what buyer pays u/s 56(2)]. (w.e.f. AY 2018-19)
- It is proposed to insert a new sub-section (5A) in section 45 so as to provide that in case of an assessee being individual or HUF, who enters into a Joint Development Agreement for development of a project the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.

In such case the stamp duty value of his share (land or building or both) in the project on the date of issuing of said certificate of completion as increased by any monetary consideration received, if any, shall be the full value of the consideration as a result of the transfer of the capital asset.

However benefit of this proposed regime shall not apply to an assessee who transfers his share in the project to any other person on or before the date of issue of said certificate of completion. (w.e.f. AY 2018-19)

- To widen the scope of the section 54 EC, it is proposed to add notified bonds by the Central Government apart from bonds of REC or NHAI where investment can be made. (w.e.f. AY 2018-19 onwards)
- Section 49 is proposed to be amended to provide that where the capital gain arises from the transfer of an asset, being the asset held by a trust or an institution in respect of which accreted income has been

computed u/s 115TD, and the tax has been paid thereon, the cost of acquisition of such asset shall be deemed to be the fair market value of the asset. (Effective Retrospectively from 1<sup>st</sup> June, 2016)

- In case capital gain arises to an Individual or HUF from the transfer of a specified capital asset referred to in clause (c) of the Explanation to clause (37A) of section 10(37A), which has been transferred after the expiry of two years from the end of the financial year and the reconstituted plot or land, received under land pooling scheme is transferred after the expiry of two years from the end of the financial year in which the possession of such plot or land was handed over to the said assessee, the cost of acquisition of such plot or land shall be its stamp duty value on the last day of the second financial year after the end of financial year in which the possession of such asset was handed over to the assessee. (w.e.f. AY 2018-19)
- In case of demerger cost of acquisition of the shares of Indian company in the hands of the resulting foreign company shall be the same as it was in the hands of demerged foreign company. (w.e.f. AY 2018-19)
- Transfer of capital asset, being rupee denominated bond of Indian company issued outside India, by a non-resident to another non-resident shall not be regarded as transfer. (w.e.f. AY 2018-19)
- Conversion of preference share of a company into its equity share shall not be regarded as transfer. Consequently the cost of acquisition and period of holding shall be the date of acquisition of preference shares (w.e.f. AY 2018-19)
- Similarly cost of acquisition of the units in the consolidated plan of mutual fund scheme referred to in section 47(xix) shall be the cost of units in consolidating plan of mutual fund scheme and period of holding of the units of consolidated plan of mutual fund scheme shall include the period for which the units in consolidating plan of mutual fund scheme were held by the assessee. (w.e.f. AY 2018-19)

#### **Income from House Property**

- It is proposed to amend Section 23 so as to provide that where the house property is held as stock-in-trade and the property is not let during the whole or any part of the previous year, the annual value of such property shall be taken to be nil, upto 1 year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority. (w.e.f. AY 2018-19)
- It is proposed to provide that set-off of loss under the head "Income from house property" against any other head of income shall be restricted to Rs. 2 Lacs for any assessment year. Excess amount would be allowed to be carried forward and set-off against "Income from house property" only for 8 years as per existing provisions. (w.e.f. AY 2018-19)

#### **Income from Business & Profession**

- It is proposed to insert section 269ST in the Act to provide that no person shall receive an amount of Rs. 300000/- or more, –
  - in aggregate from a person in a day;
  - in respect of a single transaction; or
  - in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system. Exemption is given to receipt by Government, Banks and notified persons. Penalty introduced for the contravention. (w.e.f. AY 2018-19)

- It is proposed to amend section 40A to provide that any payment in cash above Rs. 10000/- to a person in a day shall not be allowed as deduction in computation of Income from "Profits and gains of business or profession". If the expenditure is incurred in a particular year but the cash payment is made in any subsequent year of a sum exceeding Rs. 10000/- to a person in a single day then that payment shall be deemed to be profits and gains of business or profession in that year. The earlier limit was Rs. 20000/- (w.e.f. AY 2018-19)
- In case an assessee incurs any expenditure for acquisition of any asset in respect which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system, exceeds Rs. 10000/-, such expenditure shall be ignored for the purposes of determination of actual cost of such asset u/s 43. Consequently depreciation would not be allowed on the same. (w.e.f. AY 2018-19)
- Section 44AA is proposed to be amended to increase monetary limits of income and total sales or turnover or gross receipts for maintenance of books of accounts from Rs. 120000/- to Rs. 250000/- and from Rs. 10 Lakhs to Rs. 25 Lakh, respectively in the case of Individuals and HUF carrying on business or profession. (w.e.f. AY 2018-19)
- Section 44AB is proposed to be amended to exclude the eligible person, who declares profits as per the provisions of section 44AD(1) and his total sales, total turnover or gross receipts, as the case may be, in business does not exceed Rs. 2 Crores in such previous year, from requirement of tax audit. (w.e.f. AY 2018-19)
- It is proposed to amend section 44AD to reduce the existing rate of deemed total income of 8% to 6% in respect of the amount of such total turnover or gross receipts received by an account payee cheque or account payee bank draft or use of electronic clearing system. However, the existing rate of deemed profit of 8% referred to in section 44AD of the Act, shall continue to apply in respect of total turnover or gross receipts received in any other mode. (w.e.f. AY 2017-18)
- It is proposed to amend section 35AD to provide that any expenditure in respect of which payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system, exceeds Rs. 10000/- no deduction shall be allowed in respect of such expenditure. (w.e.f. AY 2018-19)
- Where any capital asset in respect of which deduction allowed u/s 35AD is deemed to be the income of the assessee in accordance with the provisions of sub-section (7B) of the said section, the actual cost to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purposes of business since the date of its acquisition. (w.e.f. AY 2018-19)
- Benefit section 43D extended to co-operative banks other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank where interest income in relation to certain categories of bad or doubtful debts received by certain institutions or banks or corporations or companies, shall be chargeable to tax in the previous year in which it is credited to its profit and loss account for that year or actually received. (w.e.f. AY 2018-19)
- Interest payable on any loan or advances from a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank shall be allowed as deduction if it is actually paid on or before the due date of furnishing the return of income of the relevant previous u/s 43B. (w.e.f. AY 2018-19)
- A scheduled bank or a non-scheduled bank or a co-operative bank other than a primary agricultural



credit society or a primary co-operative agricultural and rural development bank, can claim deduction in respect of provision for bad and doubtful debts, which is limited to 7½% of the total income (computed before making any deduction under that clause and Chapter VIA) and an amount not exceeding 10% of the aggregate average advances made by the rural branches of such bank u/s 36. It is proposed to amend the said clause to enhance the present limit to 8½% of the amount of the total income. (w.e.f. AY 2018-19)

### **Income from Other Sources**

- It is proposed to insert a new clause (x) in section 56(2) to provide that receipt of the sum of money or the property by any person without consideration or for inadequate consideration in excess of Rs. 50,000 shall be chargeable to tax in the hands of the recipient under the head "Income from other sources". This provision would be applicable to all assesses. Earlier certain provisions were applicable to individuals & HUF [S. 56(2)(vii)] and certain to company and firm [S. 56(2)(viii)]. Both these provisions would not be applicable w.e.f. AY 2018-19. It is also proposed to widen the scope of existing exceptions by including the receipt by certain trusts or institutions and receipt by way of certain transfers not regarded as transfer u/s 47. (w.e.f. AY 2018-19)

### **Set off & Carry Forward of Losses**

- It is proposed to substitute section 79 to give benefit to start-up companies to provide that where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested and being an eligible start-up as referred to in this Act, loss shall be carried forward and set off against the income of the previous year, if all the shareholders of such company which held shares on the last day of the year in which the loss was incurred continue to hold those shares on the last day of such previous year. (w.e.f. AY 2018-19)

### **Return / Assessment / Appeal**

- It is proposed to amend section 139(5) to provide that the time for furnishing of revised return shall be available upto the end of the relevant assessment year or before the completion of assessment, whichever is earlier. (w.e.f. AY 2018-19)
- For the AY 2018-19, the time limit for making an assessment order u/s 143 or 144 shall be reduced from existing 21 months to 18 months from the end of the AY, and for the AY 2019-20 and onwards, the said time limit shall be 12 months from the end of the AY.
- The time limit for making an order of assessment, reassessment or re-computation under section 147, in respect of notices served u/s 148 on or after the 1st day of April, 2019 shall be 12 months from the end of the FY in which notice u/s 148 is served. Time limit for making an order of fresh assessment in pursuance of an order passed or received in the FY 2019-20 and onwards u/s 254 or 263 or 264 shall be 12 months from the end of the FY in which order u/s 254 is received or order u/s 263 or 264 is passed by the authority referred therein.
- It is also proposed to amend sub-section (5) of the section 153, to provide that where an order u/s 250 or 254 or 260 or 262 or 263 or 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee, the time limit relating to fresh assessment shall apply to the order giving effect to such order. (retrospectively from 1<sup>st</sup> June, 2016)
- It is also proposed to amend sub-section (9) of the section 153, to provide that where a notice u/s 142(1) or 143(2) or 148 has been issued prior to the 1st day of June, 2016 and the assessment or reassessment has not been completed by such date due to exclusion of time, such assessment or

reassessment shall be completed in accordance with the provisions of section 153 as it stood immediately before its substitution by the Finance Act, 2016. (retrospectively from 1<sup>st</sup> June, 2016)

- Under section 143(1D), processing of a return shall not be necessary, where a notice for assessment has been issued to the assessee. It is proposed that provisions of section 143(1D) shall cease to apply in respect of returns furnished for AY 2017-18 and onwards.
- It is also proposed to insert a proviso to the Explanation of the section 153 to provide that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section for assessment or reassessment shall after the exclusion of the period under sub-section (4) of section 245HA shall not be less than 1 year; and where such period of limitation is less than 1 year, it shall be deemed to have been extended to 1 year.
- It is proposed to amend section 155 to provide where credit for foreign taxes paid is not given in relevant assessment year in case of a dispute, AO shall rectify the assessment order or intimation u/ section 143(1) within 6 months from end of month in which dispute is settled on furnishing of proof by assessee regarding settlement of dispute and undertaking that credit has not been claimed of such foreign tax paid. (w.e.f. AY 2018-19)
- Scope of the section 253 has been expanded to provide that the orders passed by the prescribed authority under sub-clauses (iv) and (v) of sub-section (23C) of section 10 shall also be appealable before the ITAT.

#### **Advance Tax/Interest/Refund**

- It is proposed that professionals who declare profits and gains in accordance with presumptive taxation u/s 44ADA shall also be liable to pay advance tax in 1 installment on or before the 15th of March. Interest u/s 234C to be charged accordingly for short payment.
- It is also proposed that if shortfall in payment of advance tax is on account of under-estimation or failure in estimation of income of the nature referred to in section 115BBDA (dividend exceeding Rs. 10 Lakhs), the interest u/s 234C shall not be levied subject to fulfilment of conditions specified therein. (w.e.f. AY 2018-19)
- It is proposed that the interest on refund u/s 244A shall not be allowed for the period for which the delay in the proceedings resulting in the refund is attributable to the deductor. (w.e.f. AY 2018-19)
- New section 241A has been inserted for the returns furnished for AY commencing on or after 1st April, 2017, where refund of any amount becomes due to the assessee under section 143(1) and the Assessing Officer may, for the reasons recorded in writing and with the previous approval of the Pr. Commissioner or Commissioner, withhold the refund upto the date on which the assessment is made (w.e.f. AY 2018-19)

#### **Search / Survey**

- It is proposed to amend section 153A relating to search assessments to provide that notice under the said section can be issued for AY(s) beyond the 6<sup>th</sup> AY already provided upto the 10<sup>th</sup> AY if –
  - the Assessing Officer has in his possession books of accounts or other documents or evidence which reveal that the income which has escaped assessment amounts to or is likely to amount to Rs. 50 Lacs or more in 1 year or in aggregate in the relevant 4 assessment years (falling beyond the 6<sup>th</sup> year);

- such income escaping assessment is represented in the form of asset;
- the income escaping assessment or part thereof relates to such year or years.
- Consequently section 197(c) of the Finance Act shall be omitted.
- It is proposed to insert an explanation to sub-section (1) & (1A) of section 132 and sub-section (1) of section 132A to declare that the 'reason to believe' or 'reason to suspect', as the case may be, shall not be disclosed to any person or any authority or the Appellate Tribunal in case of a search. (Effective retrospectively from the date of enactment of the said provision)
- Section 153 to be amended to provide that for search and seizure cases conducted in the FY 2018-19, the time limit for making an assessment order u/s 153A shall be reduced from existing 21 months to 18 months from the end of the financial year in which the last of the authorisations for search or for requisition was executed. It is further proposed that for search and seizure cases conducted in the FY 2019-20 and onwards, the said time limit shall be further reduced to 12 months from the end of the financial year in which the last of the authorizations for search or for requisition was executed.
- It is proposed to provide that period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period available to make assessment or reassessment in case of person on whom search is conducted or 12 months from the end of the financial year in which books of accounts or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other persons, whichever is later.
- It is proposed to amend section 132 to provide that during the course of a search or seizure or within a period of 60 days from the date on which last of the authorisations for search was executed, the authorised officer may attach provisionally any property belonging to the assessee with the prior approval of Principal Director General or Director General or Principal Director or Director.
- The authorised officer may, for the purpose of estimation of fair market value of a property, make a reference to a Valuation Officer who shall furnish the valuation report within 60 days of receipt of such reference. (w.e.f. 1<sup>st</sup> April, 2017)
- It is proposed to amend the first proviso of Sec 133 to provide that the power in respect of inquiry or proceeding may also be exercised by the Joint Director, the Deputy Director and the Assistant Director. It is further proposed to amend the second proviso of the said section to provide that the Joint Director, the Deputy Director or the Assistant Director may exercise the powers in respect of such inquiry, without seeking prior approval of higher authorities. (w.e.f. 1<sup>st</sup> April, 2017)
- It is proposed to extend the power to survey to include any place, at which an activity for charitable purpose is carried on. (w.e.f. 1<sup>st</sup> April, 2017)
- It is proposed to amend section 133C to empower the CBDT to make a scheme for centralised issuance of notice calling for information and documents for the purpose of verification of information in its possession, processing of such documents and making the outcome thereof available to the Assessing Officer for necessary action, if any. (w.e.f. 1<sup>st</sup> April, 2017)

#### **Penalties / Fees**

- It is proposed to insert section 234F to provide for fee for delay in furnishing of ITR as follows:
  - Rs. 5000/-, if the return is furnished after the due date but on or before the 31<sup>st</sup> day of December of the assessment year;

- Rs. 10000/- in any other case.

However, in a case where the total income does not exceed Rs. 5 Lakhs, the fee amount shall not exceed Rs. 1000/-. In computation of amount payable or refund due, as the case may be, u/s 143(1), the fee payable for delay in furnishing of return shall also be taken into account (w.e.f. AY 2018-19)

- It is also proposed to insert section 271DA in the Act to provide for levy of penalty equal to the amount of such receipt in contravention of section 269ST (Rs. 3 Lakhs in mode other than cash). (w.e.f. AY 2018-19)
- It is proposed to insert section 271J so as to provide that if an accountant (CA) or a merchant banker or a registered valuer, furnishes incorrect information in a report or certificate under any provisions of the Act or the rules made thereunder, the Assessing Officer or the CIT (Appeals) may direct him to pay a sum of Rs. 10000/- for each such report or certificate by way of penalty. (w.e.f. 1<sup>st</sup> April 2017)
- Penalty u/s 271F in respect of penalty for failure to furnish return of income to be omitted. (w.e.f. AY 2018-19)

### **Transfer Pricing / International Tax**

- It is proposed to insert section 94B, to provide that interest expenses claimed by an entity to its associated enterprises shall be restricted to 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to associated enterprise, whichever is less. It is proposed to provide for a threshold of interest expenditure exceeding Rs. 1 Crore which the provision would be applicable. Banks and Insurance business would be excluded. (w.e.f. AY 2018-19)
- It is proposed to provide that expenditure in respect of which payment has been made by the assessee to a person referred to in under section 40A(2)(b) are to be excluded from the scope Domestic Transfer Pricing (w.e.f. AY 2018-19)
- Where any 'term' used in an agreement entered into u/s 90 and 90A, the said term shall be assigned the meaning as provided in the said agreement and where the term is not defined in the agreement, but is defined in the Act, it shall be assigned the meaning as definition in the Act or any explanation issued by the Central Government. (w.e.f. AY 2018-19)
- New section 92CE to be inserted to provide that the assessee shall be required to carry out secondary adjustment where the primary adjustment to transfer price, has been made suo motu by the assessee in his return of income; or made by the Assessing Officer has been accepted by the assessee; or is determined by an advance pricing agreement entered into by the assessee; or is made as per the safe harbour rules framed; or is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into.
- It is proposed to provide that where as a result of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, as the case may be, of the assessee, the excess money which is available with its associated enterprise, if not repatriated to India within the time as may be prescribed, shall be deemed to be an advance made by the assessee to such associated enterprise and the interest on such advance, shall be computed as the income of the assessee, in the manner as may be prescribed.
- It is also proposed to provide that such secondary adjustment shall not be carried out if, the amount of primary adjustment made in the case of an assessee in any previous year does not exceed Rs. 1 Crore and the primary adjustment is made in respect of an assessment year commencing on or before 1st April, 2016 (w.e.f. AY 2018-19)

- Any asset (share or interest) in an entity registered outside India which derives its value substantially from the assets located in India shall be deemed to be situated in India. But this shall not apply to any such asset being investment held by non-resident in a Foreign Institutional Investor and registered as Category-I or Category II Foreign Portfolio Investor under the SEBI (Foreign Portfolio Investors) Regulations, 2014. (w.e.f. AY 2012-13)
- It is proposed to provide that in the previous year in which the offshore fund u/s 9A is being wound up, the condition that the monthly average of the corpus of the fund shall not be less than Rs. 100 Crores, shall not apply. (w.e.f. AY 2016-17)

### **Miscellaneous Provisions**

- It is proposed to amend section 115BBDA so as to provide that income by way of dividend in excess of Rs.10 lakh is chargeable to tax at the rate of 10% on gross basis in case of all resident assessee except domestic company and certain funds, trusts, institutions, etc. (w.e.f. AY 2018-19)
- It is proposed to amend section 115JAA to provide that the tax credit in respect of Minimum Alternate Tax (MAT) paid by companies can be carried forward up to 15 years as compared to 10 years earlier. Further, similar amendment is proposed in section 115JD so as to allow carry forward of Alternate Minimum Tax (AMT) paid under section 115JC. (w.e.f. AY 2018-19)
- It is also proposed that the amount of tax credit in respect of MAT/ AMT shall not be allowed to be carried forward to subsequent year to the extent such credit relates to the difference between the amount of foreign tax credit (FTC) allowed against MAT/ AMT and FTC allowable against the tax computed under regular provisions of Act other than the provisions relating to MAT/AMT. (w.e.f. AY 2018-19)
- Provisions for computation of MAT liability under section 115JB are proposed to be re-aligned for companies which needs to comply with Indian Accounting Standards (Ind AS)
- New section 115BBG has been inserted to provide that where the total income of the assessee includes any income from transfer of carbon credit, such income shall be taxable at the concessional rate of 10% (plus applicable surcharge and cess) on the gross amount of such income. No expenditure or allowance in respect of such income shall be allowed under the Act. (w.e.f. AY 2018-19)
- Government has decided to merge the Authority for Advance Ruling (AAR) for income-tax, central excise, customs duty and service tax. Accordingly, necessary amendments, have been made to Chapter XIX-B to allow merger of these AARs.
- It is proposed to amend the definition of applicant in section 245N of the Act to provide reference of applications for Advance Ruling made under the Customs Act, 1962, the Central Excise Act, 1944 and the Finance Act, 1994. Similarly, amendment has been proposed to section 245Q which relates to application for advance ruling.

## SERVICE TAX PROPOSALS

### I. REVIEW OF NEGATIVE LIST

Come into force after the enactment of Finance Bill

Following service shall be removed from negative list & the same is now being placed in Mega Exemption Notification.

- (1) Clause (f) of section 66D is being omitted related to Services by way of carrying out any process amounting to manufacture or production of good excluding alcoholic liquor for human consumption. Consequently the definition of 'process amounting to manufacture or production of goods' is being omitted from Finance Act 1994. However, the same entry is now being placed in exemption notification No. 25/2012-Service Tax dated 20th June, 2012 vide NN 7/2017 dated 02.02.2017

### II. EXEMPTIONS AND ABATEMENTS

**Review of existing Provisions (Comes into force with effect from 02.02.2017) save as otherwise provided:**

- (1) The word "residential" is being omitted from entry 9B. The entry remains the same in all other respects in S. No. 9B of notification No. 25/2012 (which is inserted vide NN 9/2016 dated 01.03.2016) which exempts services provided by Indian Institutes of Management (IIMs) by way of two year full time residential Post Graduate Programmes (PGP) in Management for the Post Graduate Diploma in Management (PGDM), to which admissions are made on the basis of the Common Admission Test (CAT), conducted by IIM.
- (2) Entry 30 is being substituted to provide exemption to "services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption" which is being deleted from the Negative list and incorporated here. It shall be applicable from the date on which Finance Bill receives the assent of President.

Definition of "process amounting to manufacture or production of goods" is being inserted in NN.25/2012.

**New Exemptions (Comes into force with effect from 02.02.2017) save as otherwise provided**

- (1) Under the Regional Connectivity Scheme (RCS), exemption from service tax is being provided in respect of the amount of viability gap funding (VGF) payable to the selected airline operator for the services of transport of passengers, with or without accompanied belongings, by air, embarking from or terminating in a Regional Connectivity Scheme (RCS) airport, for a period of one year from the date of commencement of operations of the Regional Connectivity Scheme (RCS) airport as notified by Ministry of Civil Aviation
- (2) Services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force under the Group Insurance Schemes of the Central Government is being exempted from service tax from 2nd February, 2017.

### III. NEW TAXABILITY

- (1) Exemption from service tax would be not available to a taxable service involving import of technology on which Research and Development Cess is not payable. Full service tax along with cesses (Swachh Bharat Cess and Krishi Kalyan Cess) would be applicable to such taxable service after the enactment of Finance Bill. Earlier exemption was given in Notification No.14/2012 involving import of technology

from so much of the service tax leviable thereon as is equivalent to the amount of cess payable on the said import of technology under the Research and Development Cess Act, 1986.

#### **IV. AMENDMENTS IN CHAPTER V OF THE FINANCE ACT, 1994**

The below stated changes in the Finance Act, 1994, shall get incorporated in the said Act on the day the Finance Bill, 2017 is enacted

- (1) Section 65B to be amended to omit Clause (40) which defines "Process amounting to manufacture or production of goods".
- (2) Section 96A is being amended to substitute the definition of authority in clause (d), now the term "authority" for the purpose of advance rulings means the Authority for Advance Rulings as defined in clause (e) of section 28E of the Customs Act, 1962
- (3) Section 96B has now been omitted in which it was given that proceedings shall not be initiated against pronouncement of advance ruling merely on the ground of existence of any vacancy or defect in the Constitution of Authority.
- (4) Section 96C is being amended to make changes in sub-section (3) so as to increase the application fees for seeking advance ruling from rupees two thousand and five hundred to rupees "ten thousand" on lines of Central Excise Act place of.
- (5) Section 96D is being amended to allow a time period of 6 months (earlier 90 days were allowed) to authority for its pronouncement on advance ruling in sub section (6).
- (6) A new Section 96HA is being inserted to provide for transferring of every application and proceeding pending before the erstwhile Authority for Advance Rulings (Central Excise, Customs and Service Tax) to the Authority constituted under section 245-O of the income Tax Act from the stage at which such application or proceeding stood as on the date of Finance bill receives the assent of president.
- (7) A new section 104 is being inserted to provide exemption in certain cases relating to long term lease of industrial plot. By this insertion Benefit of the exemption notification No. 41/2016-ST dated 22.09.2016 is being extended with effect from 1.6.2007. Notification No.41/2016-ST dated 22.09.2016, exempts one time upfront amount (called as premium, salami, cost, price, development charges or by whatever name) payable for grant of long-term lease of industrial plots (30 years or more) by State Government industrial development corporations/undertakings to industrial units from Service Tax. According to this section
  - (i) no service tax, leviable on one time upfront amount (premium, salami, cost, price, development charge or by whatever name called) in respect of taxable service provided or agreed to be provided by a State Government industrial development corporation or undertaking to industrial units by way of grant of long term lease of thirty years or more of industrial plots, shall be levied or collected during the period commencing from the 1st day of June, 2007 and ending with the 21st day of September, 2016 (both days inclusive)
  - (ii) Refund shall be made of all such service tax which has been collected, but which would not have been so collected, had sub-section (i) been in force at all material times
  - (iii) Notwithstanding anything contained in this Chapter, an application for claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2017 receives the assent of the President

- (8) A new section 105 is being inserted to provide exemption in certain cases relating to life insurance services provided to members of armed forces of union under the Group Insurance Schemes of the Central Government, is being made effective from 10th day of September, 2004, the date when services of life insurance became taxable. According to this section
- (i) no service tax shall be levied or collected in respect of taxable services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government, during the period commencing from the 10th day of September, 2004 and ending with the 1st day of February, 2016 (both days inclusive).
  - (ii) Refund shall be made of all such service tax which has been collected, but which would not have been so collected, had sub-section (i) been in force at all material times.
  - (iii) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2017 receives the assent of the President

#### **V. SERVICE TAX (DETERMINATION OF VALUE) RULES, 2006**

Rule 2 A of Service Tax (Determination of Value) Rules, 2006 is being amended with effect from 01.07.2010 so as to make it clear that value of service portion in execution of works contract involving transfer of goods and land or undivided share of land, as the case may be, shall not include value of property in such land or undivided share of land.

#### **VI. CENVAT CREDIT RULE 2004**

- (1) Explanation-I (e) for the purpose of sub-rule (3) and (3A) of Rule 6 of Cenvat Credit Rules, 2004 is being amended so as to exclude banks and financial institutions including non-banking financial companies engaged in providing services by way of extending deposits, loans or advances from its ambit. It has been provided in the Cenvat Credit Rules, 2004 that value for the purpose of reversal of common input tax credit on inputs and input services used in providing taxable services and exempted services, shall not include the value of service by way of extending deposits, loans or advances against consideration in the form of interest or discount.



## CENTRAL EXCISE PROPOSALS

Proposals involving changes in rates of duty

### I. PAN MASALA

Particulars/Items	Rate of Additional Excise Duty
Pan Masala	Increased from 6 % to 9 %

### II. TOBACCO AND TOBACCO PRODUCTS

Particulars/Items	Rate of Basic Excise Duty	
	From	To
Cigar and cheroots, Cigarillos, Cigarillos of tobacco substitutes and Others of tobacco substitutes.	Higher of 12.5% or Rs. 4006 per thousand	Higher of 12.5% or Rs. 3755 per thousand
Cigarettes of tobacco substitutes	Rs. 3755 per thousand	Rs. 4006 per thousand
Cigarettes	Additional Excise Duty	
	From Rs. Per thousand	To Rs. Per thousand
Non-filter Cigarettes of length not exceeding 65mm	215	311
Non-filter Cigarettes of length exceeding 65mm but not exceeding 70mm	370	541
Filter Cigarettes of length not exceeding 65mm	215	311
Filter Cigarettes of length exceeding 65mm but not exceeding 70mm	260	386
Filter Cigarettes of length exceeding 70mm but not exceeding 75mm	370	541
Other Cigarettes	560	811
Chewing tobacco (including filter khaini), Jarda scented tobacco and Pan Masala containing Tobacco (Gutkha)	Increased from 10% to 12%	
Unmanufactured tobacco	Increased from 4.2% to 8.3%	
Paper rolled biris – handmade	Increased from Rs. 21 per Thousands to 28 per Thousands.	
Paper rolled biris – machine made	Increased from Rs. 21 per Thousands to 78 per Thousands.	

**III. RENEWABLE ENERGY**

<b>Particulars/Items</b>	<b>Rate of Excise Duty</b>
Solar tempered glass for use in solar photovoltaic cells/modules, solar power generating equipment or systems, flat plate solar collector, solar photovoltaic module and panel for water pumping and other applications, subject to actual user condition*	Increased from Nil to 6%
Parts/raw materials for manufacture of solar tempered glass for use in solar photovoltaic cells/modules, solar power generating equipment or systems, flat plate solar collector, solar photovoltaic module and panel for water pumping and other applications, subject to actual user condition*	Reduced from 12.5% to 6%
Resin and catalyst for manufacture of cast components for Wind Operated Energy Generators [WOEG], subject to actual user condition*	Reduced from 12.5% to Nil
All items of machinery required for fuel cell based power generating systems to be set up in the country or for demonstration purposes*	Reduced from 12.5% to 6%
All items of machinery required for balance of systems operating on biogas/ bio-methane/ by-product hydrogen*	Reduced from 12.5% to 6%

**IV. MISCELLANEOUS**

<b>Particulars/Items</b>	<b>Rate of Excise Duty</b>
Membrane Sheet and Tricot / Spacer for use in manufacture of RO membrane element for household type filters, subject to actual user condition*	Reduced from 12.5 % to 6%
All parts for manufacture of LED lights or fixtures, including LED lamps, subject to actual user condition*	Changed to 6%
Miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, Finger Print Reader / Scanner or Iris Scanner*	Changed to Nil
Parts and components for manufacture of miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, Finger Print Reader / Scanner or Iris Scanner, subject to actual user condition*	Changed to Nil
a. Waste and scrap of precious metals or metals clad with precious metals arising in course of manufacture of goods falling in Chapter 71 b. Strips, wires, sheets, plates and foils of silver c. Articles of silver jewellery, other than those studded with diamond, ruby, emerald or sapphire d. Silver coin of purity 99.9% and above, bearing a brand name when manufactured from silver on which appropriate duty of customs or excise has been paid	Nil, subject to the condition that no credit of duty paid on inputs or input services or capital goods has been availed by manufacturer of such goods

\* Amendment in rate is subject to certain conditions and is applicable till 30<sup>th</sup> June, 2017.

**V. RETROSPECTIVE AMENDMENT**

Particulars/Items	Rate of Excise Duty
With effect from 01.01.2017 tariff rate of excise duty on motor vehicles for transport of more than 13 persons, including driver	Increase from 12.5 % to 27%

**AMENDMENTS IN THE CENTRAL EXCISE ACT, 1944****1. Amendment of Section 23A**

Section 23A is being amended, the qualifications for appointment as revenue member of the Authority for advance Ruling (AAR)

1. The Central Government shall, by notification in the Official Gazette,
2. The authority shall consist of the following members appointed by the Central Government, namely:-
  - a. a Chairperson, who is a retired Judge of the Supreme Court;
  - b. an officer of the Indian Customs and Central Excise Service who is qualified to be a member of the Board;
  - c. an officer of the Indian legal service who is, or is qualified, to be, an Additional Secretary to the Government of India.

**2. Omission of Section 23B**

Section 23B relating to vacancies not to invalidate proceedings is being omitted.

**3. Amendment of Section 23C**

Sub-section (3) of section 23C is being amended so as to increase the application fee for seeking advance ruling from rupees two thousand to rupees ten thousand.

**4. Amendment of Section 23D**

Sub-section (6) of section 23D is being amended so as to provide time limit of six months from the receipt of application by which authority shall pronounce its advance ruling.

**5. Insertion of new Section 23I**

Section 23-I is being inserted so as to provide for transferring the pending applications before the Authority for Advance Rulings to the Authority from the stage at which such application or proceeding stood as on the date on which the Finance Bill, 2017 receives the assent of the President.

**6. Amendment of Section 32E**

Section 32E is being amended so as to insert a new sub section (5) therein to enable any person, other than an assessee, may also make an application to the Settlement Commission in respect of a show cause notice issued to him.

**7. Amendment of Section 32F**

- a. Sub-section (3) of section 32F is being amended so as to substitute certain words as "Commissioner of Central Excise or Principal Additional Director General of Central Excise Intelligence or Additional

Director General of Central Excise Intelligence, as the case may be, having jurisdiction and such Commissioner or Additional Director General”.

- b. sub-section (5A) is being inserted so as to enable Settlement Commission may, at any time within three months from the date of passing of the order amend such order to rectify any error apparent on the face of record, either suomotu or when such error is brought to its notice.

Provided that no amendment which has the effect of enhancing the liability of the applicant shall be made, unless the Settlement Commission has given notice of such intention to the applicant and has given them a reasonable opportunity of being heard.

#### **AMENDMENTS IN THE CENTRAL EXCISE RULES, 2002 AND THE CENVAT CREDIT RULES, 2004**

1. Sub-rule (2) is being inserted in rule 21 of Central Excise Rules, 2002 so as to authority shall, provide a period of three months (further extendable by 6 months) from the date of receipt of application, decide the remission of duty.
2. Sub-rule (4) is being inserted in rule 10 of CENVAT Credit Rules, 2004 so as to provide for a time limit of three months (further extendable by 6 months) from the date of receipt of application for approval of requests regarding transfer of CENVAT credit on shifting, sale, merger, etc. of the factory.

The amendments involving change in the duty rates will come into effect immediately.

## CUSTOM PROPOSALS

Proposals involving changes in rates of duty

### I. MINERAL FUELS AND MINERAL OILS

Particulars/Items	Rate of BCD
Liquefied Natural Gas	Reduced from 5% to 2.5%

### II. COMMODITY

Particulars/Items	Rate of BCD
Cashew nut, roasted, salted or roasted and salted	Increase from 30% to 45%
RO membrane element for household type filters	Increase from 7.5% to 10%

### III. ORES AND CONCENTRATES

Particulars/Items	Rate of duty
Other aluminium ores and concentrates	Export Duty increase from Nil to 30%
Other aluminum ores, including laterite	Export Duty increase from Nil to 15%

### IV. CHEMICALS AND PETROCHEMICALS

Particulars/Items	Rate of Basic Custom Duty
o-Xylene	Reduced from 2.5% to Nil
Medium Quality Terephthalic Acid (MTA) & Qualified Terephthalic Acid (QTA)	Reduced from 7.5% to 5%
2-Ethyl Anthraquinone for use in manufacture of hydrogen peroxide, subject to actual user condition	Reduced from 7.5% to 2.5%
Clay 2 Powder (Alumax) for use in ceramic substrate for catalytic convertors, subject to actual user condition	Reduced from 7.5% to 5%
Vinyl Polyethylene Glycol (VPEG) for use in manufacture of Poly Carboxylate Ether, subject to actual user condition	Reduced from 10% to 7.5%

### V. FINISHED LEATHER, FOOTWEAR AND OTHER LEATER PRODUCTS

Particulars/Items	Rate of Basic Custom Duty
Vegetable tanning extracts, namely Wattle extract and Myrobalan fruit extract	Reduced from 7.5% to 2.5%
Limit of duty free import of eligible items for manufacture of leather footwear or synthetic footwear or other leather products for use in the manufacture of said goods for export	FOB value of said goods exported reduced 3% to 5%

**VI. TEXTILES**

Particulars/Items	Rate of Basic Custom Duty
Nylon mono filament yarn for use in monofilament long line system for Tuna fishing, subject to certain specified conditions	Reduced from 7.5% to 5%

**VII. ELECTRONICS/HARDWARE**

Particulars/Items	Rate of SAD
Populated Printed Circuit Boards (PCBs) for the manufacture of mobile phones, subject to actual user condition	Increased from Nil to 2%

**VIII. METALS**

Particulars/Items	Rate of BCD
Co-polymer coated MS tapes / stainless steel tapes for manufacture of telecommunication grade optical fibres or optical fibre cables, subject to actual user condition	Increased from Nil to 10%
Nickel	Reduced from 2.5% to Nil
MgO coated cold rolled steel coils for use in manufacture of CRGO steel, subject to actual user condition	Reduced from 10% to 5%
Hot Rolled Coils, when imported for use in manufacture of welded tubes and pipes falling subject to actual user condition	Reduced from 12.5% to 10%

**IX. RENEWAL ENERGY**

Particulars/Items	Rate of DUTY
Solar tempered glass for use in the manufacture of solar cells/ panels/modules subject to actual user condition	BCD reduced 5% to Nil
Parts/raw materials for manufacture of solar tempered glass for use in solar photovoltaic cells/modules, solar power generating equipment or systems, flat plate solar collector, solar photovoltaic module and panel for water pumping and other applications, subject to actual user condition	CVD reduced 12.5% to 6%
Resin and catalyst for manufacture of cast components for Wind Operated Energy Generators [WOEG], subject to actual user condition*	BCD reduced 7.5% to 5% CVD reduced 12.5% to Nil SAD reduced 4% to Nil
All items of machinery required for fuel cell based power generating systems to be set up in the country or for demonstration purposes, subject to certain specified conditions	BCD - 5% CVD - 6%
All items of machinery required for balance of systems operating on biogas/ bio-methane/ by-product hydrogen, subject to certain specified conditions	BCD - 5% CVD - 6%

**X. CAPITAL GOODS**

Particulars/Items	Rate of CVD
Ball screws, linear motion guides for use in manufacture of all CNC machine tools, subject to actual user condition	Reduced from 7.5% to 2.5%
CNC systems for use in manufacture of all CNC machine tools, subject to actual user condition	Reduced from 10% to 2.5%

**XI. MISCELLANEOUS**

Particulars/Items	Rate of Duty
Membrane Sheet and Tricot / Spacer for use in manufacture of RO membrane element for household type filters, subject to actual user condition	CVD reduced from 12.5% to 6%
All parts for manufacture of LED lights or fixtures, including LED lamps, subject to actual user condition	BCD-5% CVD - 6%
All inputs for use in the manufacture of LED Driver and MCPCB for LED lights or fixtures, including LED lamps, subject to actual user condition	BCD - 5%
De-minimis customs duties exemption limit for goods imported through parcels, packets and letters	Duty payable not exceeding Rs.100 per consignment to CIF value not exceeding Rs.1000 per consignment
Miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, Finger Print Reader / Scanner or Iris Scanner	BCD - Nil CVD - Nil SAD - Nil
Parts and components for manufacture of miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, Finger Print Reader / Scanner or Iris Scanner, subject to actual user condition	BCD - Nil CVD - Nil SAD - Nil
Silver medallion, silver coins having silver content not below 99.9%, semi- manufactured form of silver and articles of silver	CVD Nil to 12.5%
Goods imported for petroleum and coal bed methane operations by availing of the benefit, no longer required for the said purpose are being allowed to be disposed of on payment of applicable customs duties or excise duty, on the depreciated value calculated as per straight line method (subject to depreciated value not being less than 30% of the original value) of such goods.	

**AMENDMENTS IN THE CUSTOMS ACT, 1962****1. Amendment of Section 2:-**

- i. Insert clause (3A) to define a beneficial owner as any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported.
- ii. Include Foreign Post Office and International Courier Terminal are covered under the definition of a Customs Station

- iii. Insert clause (30B) “passenger name record information” means the records prepared by an operator of any aircraft or vessel or vehicle or his authorised agent for each journey booked by or on behalf of any passenger;
- 2. Section 7 is being amended to empower the Board to notify Foreign Post Offices and International Courier Terminals.
- 3. Section 17 is being amended to rationalize the requirement of documents for verification of self-assessment.
- 4. Sub-section (2) of section 27 is being amended so as to keep outside the ambit of unjust enrichment, the refund of duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made, where -
  - 1. such excess payment is evident from the bill of entry in the case of self- assessed bill of entry or
  - 2. the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.
- 5. Section 28E is being amended so as to substitute the definition of “Authority” to mean the Authority for Advance Ruling:-
  - 1. The Central Government shall, by notification in the Official Gazette,
  - 2. The authority shall consist of the following members appointed by the Central Government, namely:-
    - a. a Chairperson, who is a retired Judge of the Supreme Court;
    - b. an officer of the Indian Revenue Service who is qualified to be a member of the Central Board of Direct Taxes;
    - c. an officer of the Indian legal service who is, or is qualified, to be, an Additional Secretary to the Government of India.
- 6. Section 28F is being so as to provide for transferring the pending applications before the Authority for Advance Rulings to the Authority from the stage at which such application or proceeding stood as on the date on which the Finance Bill, 2017 receives the assent of the President.
- 7. Section 28G relating to vacancies not to invalidate proceedings is being omitted.
- 8. Section 28H is being amended so as to increase the application fee for seeking advance ruling from rupees two thousand to rupees ten thousand.
- 9. Section 28I is being amended so as to provide time limit of six months from the receipt of application by which authority shall pronounce its advance ruling.
- 10. Section 30A and 41A is newly inserted being introduced so as to make it obligatory on the person-in-charge of a conveyance that enters India from any place outside India or any other person, to deliver to the proper officer the passenger and crew arrival/departure manifest before arrival/departure in the case of an aircraft or a vessel and upon arrival/departure in the case of a vehicle; and passenger name record information of arriving/departing passengers. There is a penalty not exceeding fifty thousand rupees in the case of delay in delivering the information.
- 11. Sub-section (3) of section 46 is being substituted so as to make it mandatory to file the bill of entry before the end of the next day following the day (excluding holidays) on which the vessel or aircraft or vehicle carrying the goods arrives at a customs station.



12. Sub-section (2) of section 47 is being amended so as to provide the manner of payment of duty and interest thereon in the case of self-assessed bills of entry.

13. Section 49 is being amended to extend the facility of storage in a public warehouse for a period not exceeding 30 days which may be further extended for a period of 30 days at a time.

14. Sub-section (5) of Section 127B is newly inserted to enable any person, other than an assessee, may also make an application to the Settlement Commission in respect of a show cause notice issued to him.

15. Sub-section (3) of section 127C is being amended so as to substitute certain words as “Commissioner of Customs or Principal Additional Director General of Revenue Intelligence or Additional Director General of Revenue Intelligence, as the case may be, having jurisdiction and such Commissioner or Additional Director General”

#### **AMENDMENT IN THE CUSTOMS TARIFF ACT, 1975**

1. Clause(c) of sub-section (3) of section 9 is being substituted so as to withdraw the exemption to three categories of non-actionable subsidies specified therein from the scope of anti-subsidy investigations.

2. All dutiable articles are now taxable under act, intended for personal use imported by courier, sea, or land.

3. Articles imported by a passenger or a member of a crew or any person under an import licence or a Customs Clearance Permit either for his own use or on behalf of others through courier service now taxable under act.

## OTHER PROPOSALS

### Other General Proposals

#### 1. OVERVIEW OF INDIAN ECONOMY

- World Bank has projected GDP growth of 7% in FY 2016-17.
- IMF (International Monetary Fund) has forecasted that India will be one of the fastest growing major economies in 2017
- Demonetisation is a bold and decisive measure to curb tax evasion and parallel economy.
- Inflation has been brought under control, CPI based inflation declined from 6% in July, 2016 to 3.4% in December, 2016
- Foreign exchange reserves showed a sharp increase to 361 billion US dollars.
- India is seen as engine of global growth, have witnessed historic reform in last one year.
- The focus will be on energizing youth to reap benefits of growth and employment.

#### 2. INFRASTRUCTURE AND INDUSTRIAL DEVELOPMENT

- Total allocation for infrastructure stands at a record of Rs. 3, 96,135 crore.
- Total allocation in the transportation sector as a whole, including rail, roads, shipping would be 2, 41,387 crore for 2017-18
- There has been an allocation of 1,31,000 crore in the Budget for Railways, out of which 55,000 crore has been provided by the government.
- High speed broadband connectivity on optical fiber will be available in more than 1,50,000 gram panchayats, with wifi hot spots and access to digital services at low tariffs under BharatNet Project, by the end of 2017-18.
- Strategic crude oil reserves are proposed to set up at 2 more locations, namely, Chandikhole in Odisha and Bikaner in Rajasthan for strengthening energy sector
- Solar Park development with additional 20000 MW capacity is proposed to be taken up in second phase.
- A new central scheme, namely, Trade Infrastructure for Export Scheme (TIES) will be launched this year with a focus on export infrastructure.
- A provision of 745 crores in 2017-18 in incentive schemes like M-SIPS and EDF shall be created to make India a global hub for electronics manufacturing.
- Selected Airports in Tier 2 cities will be taken up for operation and maintenance in the PPP mode.
- 2,000 kms of coastal connectivity roads have been identified for construction and development
- Unmanned level crossings on Broad Gauge lines will be eliminated by 2020
- Railway lines of 3,500 kms will be commissioned in 2017-18. During 2017-18, at least 25 stations are expected to be awarded for station redevelopment.

- 500 stations will be made differently abled friendly by providing lifts and escalators.
- It is proposed to feed about 7,000 stations with solar power in the medium term
- SMS based “Clean My Coach Service” has been started
- By 2019, all coaches of Indian Railways will be fitted with bio-toilets
- Service charge on rail tickets booked through IRCTC to be withdrawn.
- A new metro rail policy will be announced, which will open up new jobs for youth.

### 3. AGRICULTURE & FARMERS

- Government is Committed to double the income of farmers in 5 years
- Allocation under Prime Minister Fasal Bima Yojana will be increased from 30% in 2016-17 to 40% in 2017-18 and 50% in 2018-19 by making a provision of 9,000 crore.
- Target for agricultural credit in 2017-18 has been fixed at a record level of 10 lakh crores.
- Farmers will get benefitted from 60 days interest waiver scheme.
- New mini labs in Krishi Vigyan Kendras (KVKs) and 100% coverage of all 648 KVKs in the country for soil sample testing.
- Micro Irrigation fund in NABARD to achieve ‘per drop more crop’ with initial corpus of 5,000 crore.
- The coverage of National Agricultural Market (e-NAM) will be expanded from the current 250 markets to 585 APMCs
- Government is committed to support NABARD for computerization and integration of all Primary Agricultural Credit Societies with the Core Banking System of District Central Cooperative Banks at an estimated cost of 1,900 crores in 3 years.

### 4. FINANCIAL SECTOR

- The bill relating to resolution of financial firms will be introduced in the current Budget Session of Parliament to contribute to stability and resilience of financial system
- Computer Emergency Response Team for our Financial Sector (CERT-Fin) will be established for safeguarding the integrity and stability of financial sector
- Target of amount sanctioned under Pradhan Mantri Mudra Yojana is to be set at Rs. 2,44,000 crore.
- Foreign Investment Promotion Board (FIPB) to be abolished in 2017-18.
- Allocation of Rs.10,000 crore towards re-capitalisation of Banks in line with ‘Indradhanush’ roadmap.
- A new ETF with diversified CPSEs stocks and other government holdings will be launched in 2017-18.
- An integrated public sector ‘oil major’ is proposed to be created to match the performance of international and domestic private sector oil and gas companies.
- The shares of Railway PSEs like IRCTC, IRFC and IRCON will be listed in stock exchanges.

- Listing and trading of Security Receipts issued by a securitization company or a reconstruction company under the SARFAESI Act will be permitted in SEBI registered stock exchanges
- An expert committee will be constituted to study and promote creation of an operational and legal framework to integrate spot market and derivatives market in the agricultural sector, for commodities trading. e- NAM to be an integral part of the framework

## 5. DIGITAL ECONOMY

- Two new schemes will be launched to promote the usage of BHIM; i.e. Referral Bonus Scheme for individuals and a Cashback Scheme for merchants
- A merchant version of Aadhar Enabled Payment System, will be launched very soon.
- Banks have targeted to introduce additional 10 lakh for new PoS terminals by March 2017
- A proposal is under consideration to mandate all Government receipts through digital means, beyond a prescribed limit.
- Proposed to create a Payments Regulatory Board in the RBI by replacing the existing Board for Regulation and Supervision of Payment and Settlement Systems

## 6. RURAL DEVELOPMENT

- Total allocation for rural, agricultural and allied sectors for 2017-18 is Rs. 1,87,223 crore, which is 24% higher than last year.
- It is proposed to complete 1 crore houses by 2019 for the houseless and those living in kutcha houses.
- Government is keen to achieve 100% rural electrification by 1st May, 2018
- Aim to bring 1 crore households out of poverty and to make 50,000 Gram Panchayats poverty free by 2019.
- Safe drinking water to cover 28,000 arsenic and fluoride affected habitations in next 4 years.
- Sanitation coverage in rural India has gone up from 42% in 2014 to 60%.
- A programme of “human resource reforms for results” will be launched during 2017-18 for human resources development programmes in Panchayati raj institutions

## 7. YOUTH

- SWAYAM platform, leveraging IT, to be launched with at least 350 online courses enabling students to virtually attend courses taught by the best faculty.
- A National Testing Agency as an autonomous and self-sustained premier testing organisation to conduct allentrance examinations for higher education institutions
- Pradhan Mantri Kaushal Kendras to be extended to more than 600 districts and 100 India International Skills Centres will be established across the country.
- SANKALP (Skill Acquisition and Knowledge Awareness for Livelihood Promotion programme) to be launched at a cost of Rs 4,000 crore.

- Allocation of 2,200 crore for next phase of Skill Strengthening for Industrial Value Enhancement (STRIVE) to be launched in 2017-18.
- Incredible India 2.0 campaign will be launched across the world to promote tourism and employment.
- Innovation Fund for Secondary Education proposed to encourage local innovation for ensuring universal access, gender parity and quality improvement to be introduced in 3479 educationally backward districts.

## 8. POOR AND UNPRIVILEGED

- Mahila Shakti Kendra will be set up with an allocation of Rs.500 crores in 14 lakh ICDS Anganwadi Centres
- Affordable housing to be given infrastructure status.
- National Housing Bank will refinance individual housing loans amounting to Rs.20,000 crore in 2017-18
- Allocation for the welfare of women and children is Rs. 184632 crore
- To create additional 5,000 Post Graduate seats per annum, to ensure adequate availability of specialist doctors to strengthen Secondary and Tertiary levels of health care.
- Two new All India Institutes of Medical Sciences to be set up in Jharkhand and Gujarat
- The allocation has been increased to Rs.31,920 crores for Scheduled Tribes and to Rs.4,195 crores for Minority Affairs.
- Aadhar based Smart Cards containing their health details will be introduced for senior citizens,

## 9. FISCAL DISCIPLINE

- Fiscal deficit for FY 2017-18 is estimated at 3.2% of GDP.
- Revenue Deficit target reduced from 2.3% to 2.1% in Revised Estimates for FY 2016-17.
- Total expenditure projected at 21.47 lakh crores for FY 2017-18
- Total Expenditure pegged at 4.35 lakh crores, showing net increase of 25.4% over the last year.
- Provisions made for 3000 crore to implement announcements made in budget & new schemes.
- A sum of Rs.2,74,114 crores have been provided for defence capital excluding pensions
- Setup of Dairy Processing & Infrastructure Development Fund would take place with an initial investment of 2000 crores & will be increased to 8000 crores over 3 years.
- Participation of women has increased to 55% in MGNREGA from less than 48%, thereby inducing govt. to increase the amount allocated to MGNREGA by Rs.8500 crores to a level of 48000 crores (in 2017-18) from Rs.38,500 crores (2016-17).
- Rashtriya Rail Sanraksha Kosh will be created with a corpus of Rs. 1 lakh crores over a period of 5 years for passenger safety, Capital and development works, Cleanliness; and Finance and accounting reforms.

## OTHER ACTS AMENDMENTS

### 1. Indian Trust Act, 1882

The words “invest the money in any of the securities or class of securities expressly authorised by the instrument of trust or”, has been replaced by the words, “make investments as expressly authorised by the instrument of trust or in any of the securities or class of securities” has been substituted in S. 20.

In the proviso, the words “in any of the securities or class of securities mentioned above” is being omitted.

### 2. Indian Post Office Act, 1898

The proviso to S. 7 has been substituted with “The rates set forth in the First Schedule shall be the rates chargeable under this Act until notification with regard to rate chargeable is issued”. Also subsection (2) which defines the same thing is now being omitted

### 3. Reserve Bank Of India Act, 1934

Sub-section (3) is being inserted in S. 31, to provide power to the Central Government to authorize any scheduled bank to issue electoral bond.

Definition of “Electoral Bond” is being inserted by way of explanation, means a bond issued by any Scheduled bank under the scheme as may be notified by the Central Government”.

### 4. Representation Of People Act 1951

No report is required to be prepared for contributions received by way of an electoral bond u/s 29 C(1).

### 5. Oil Industry (Development) Act 1974

Clause (e) and (f) is being inserted in S. 18(2), which provides that the proceeds of Oil Industry Development Fund now can be utilized for meeting any expenditure incurred by any Central Public Sector Undertaking in the oil and gas sector, on behalf of the Central Government and for meeting expenditure on any scheme or activity by the Central Government relating to oil and gas sector”.

### 6. Research And Development Cess Act 1986

- (a) Proposed to withdraw the Research and Development Cess Act from 01<sup>st</sup> April 2017. However withdrawal of this act will not effect any other legislation, anything already done, any principle or rule of law, or established jurisdiction
- (b) Proceeds of duties levied under the said Act immediately preceding the date of commencement of this withdrawn procedure whether collected or not by the collecting agencies, shall be paid or collected and paid into the Reserve Bank of India for being credited to the Consolidated Fund of India.

### 7. Securities And Exchange Board Of India Act, 1992

(1) Section 2(1) to be amended to insert

- Clause (da) which defines “Insurance Regulatory and Development Authority”
- Clause (db) which defines “Judicial Member”

- Clause (fa) which defines “Pension Fund Regulatory and Development Authority”
  - Clause (j) which defines “Technical Member”
- (2) In Chapter VIB of the principal Act for the word “APPELLATE TRIBUNAL” the words “SECURITIES APPELLATE TRIBUNAL” is being substituted.

**8. Payment And Settlement System Act, 2007:**

Chapter II (Designated Authority) of Payment and Settlement Act 2007 is being substituted to replace “Board for Regulation ‘and Supervision of Payment and Settlement Systems” with “Payments Regulatory Board”

# *Lunawat & Co.*

*Chartered Accountants*

## **PASCHIM VIHAR NEW DELHI**

A-2/132, Prateek Apartments, Paschim Vihar, New Delhi – 110 063  
Tel: + 91 11 25278405 ; + 91 11 25278406 ; + 91 11 45581264;  
+ 91 11 45733511 ; + 91 11 45733512  
Email: pvoffice@lunawat.com

54, Daryaganj, New Delhi – 110 002  
Tel: +91 11 23270624 ; + 91 11 23279414  
Email: dgoffice@lunawat.com

## **DARYAGANJ NEW DELHI**

## **KARAMPURA NEW DELHI**

109, Magnum House-1, Karampura Complex, New Delhi-110 015  
Tel: + 91 11 41427356  
Email: karampura@lunawat.com

WZ-339, 2nd Floor, Street No. 19, Santgarh, Keshopur,  
Outer Ring Road, New Delhi - 110 018  
Tel. : +91 9311116054  
Email: keshopur@lunawat.com

## **KESHOPUR NEW DELHI**

## **MUMBAI**

Office No. 9, First Floor, Star Trade Centre, Chamunda Circle,  
Near Station, Borivali (W), Mumbai - 400 092  
Tel: + 91 22 28954451 ; + 91 9869285628  
Email: mumbai@lunawat.com

### **WE ALSO HAVE ASSOCIATES AT**

Chennai, Kolkatta, Jalandhar, Pune, Chandigarh, Udaipur, Vadodara, Bangalore, Cochin,  
Indore, Jodhpur, Jaipur, Bharatpur, Hyderabad, Jharsuguda, Panipat, Ranchi and Ghaziabad