



LLB & Co.
Chartered Accountants



Budget

Change is Hard at First,
Messy in the Middle and
Gorgeous at the End.
~Robin Sharma

Connection

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JUST TO
REMIND
YOU:

- Feb 6 - E-Payment of Service Tax for Jan by Companies
- Feb 7 - Payment of TDS/TCS
- Feb 9 - E-filing of MVAT Audit Report
- Feb 21 - Payment of MVAT for Jan
- Feb 28 - Payment & Monthly Return of Maharashtra PT

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Budget 2017: Key Changes in Direct Tax

Surcharge:

Existing Income Tax rates for Individual or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person having income of Rs. 2.5 lakhs to Rs. 5 lakhs is reduced to 5% from the present rate of 10%.

The proposed tax slab rates for said persons are as follows:

- Upto Rs. 2.5 Lakhs - Nil
- Rs. 250001 to 500000 - 5%
- Rs. 500001 to 10,00,000 - 20%
- Above Rs. 10,00,000 - 30%

It is also proposed by Finance Bill, 2017 to reduce the income tax for smaller companies with annual turnover upto Rs. 50 crore to 25%. As per FM Budget Speech, this proposal will directly benefit 96% of companies.

Surcharge of 10% of tax payable has been proposed to be levied on categories of individuals whose annual taxable income is between Rs. 50 lakhs and Rs. 1 crore.

Presumptive Income u/s 44AD

Under scheme of presumptive income for small and medium tax payers whose turnover is upto 2 crores, the present, 8% of their turnover which is counted as presumptive income is reduced to 6% in respect of turnover which is by non-cash means.

Cash Transaction of above Rs 3 Lakh:

The FM in its Budget speech stated that "The Special Investigation Team (SIT) set up by the Government for black money has suggested that no transaction above Rs. 3 lakh should be permitted in cash. The Government has decided to accept this proposal. Suitable amendment to the Income-tax Act is proposed in the Finance Bill for enforcing this decision."

This is another attempt from Government Side to curb Black Money and benami transactions.

Start-ups:

For the purpose of carry forward of losses in respect of such start-ups, the condition of continuous holding of 51% of voting rights has been relaxed subject to the condition that the holding of the original promoter/promoters continues.

Also the profit linked deduction available to the start-ups for 3 years out of 5 years is being changed to 3 years out of 7 years.

Minimum Alternate Tax:

Proposal of trade bodies to abolish MAT has not been accepted.

But, in order to allow companies to use MAT credit in future years it has been proposed to allow carry forward of MAT upto a period of 15 years instead of 10 years at present.

Changes in Capital Gain Taxation:

Reduction in time period for land & building to qualify as LTCA: In case of immovable



property, being land or building or both, time periods to qualify as long term capital asset is reduced from 36 Months to 24 Months. The Amendment shall be effective from April 1, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent years.

Capital gains in case of joint development agreement: For joint development agreement signed for development of property, the liability to pay capital gain tax will arise in the year the project is completed.

Base Year for calculating Capital Gain Tax: Base year for calculating Capital Gain Taxation has been shifted from 1981 to 2001.

For Banking Sector:

Allowable provision for Non-Performing Asset has been proposed to be increased from 7.5% to 8.5%.

It has been proposed to tax interest receivable on actual receipt instead of accrual basis in respect of NPA accounts of all non-scheduled cooperative banks also at par with scheduled banks.

Fee for delayed filing of return

In view of the non-intrusive information-driven approach for improving tax compliance and effective utilization of information in tax administration, it is important that the returns are filed within the due dates specified in section 139(1). Further, the reduced time limits proposed for making of assessment are also based on pre-requisite that returns are filed on time.

In order to ensure that return is filed within due date, it is proposed to insert a new section 234F in the Act to provide that a fee for delay in furnishing of return shall be levied for assessment year 2018-19 and onwards in a case where the return is not filed within the due dates specified for filing of return under subsection (1) of section 139. The proposed fee structure is as follows:—

(i) a fee of five thousand rupees

shall be payable, if the return is furnished after the due date but on or before the 31st day of December of the assessment year;

(ii) a fee of ten thousand rupees shall be payable in any other case.

However, in a case where the total income does not exceed five lakh rupees, it is proposed that the fee amount shall not exceed one thousand rupees.

In view of above, it is proposed to make consequential amendment in section 140A to include that in case of delay in furnishing of return of income, alongwith the tax and interest payable, fee for delay in furnishing of return of income shall also be payable.

It is also proposed to make consequential amendment in subsection (1) of section 143, to provide that in computation of amount payable or refund due, as

the case may be, on account of processing of return under the said sub-section, the fee payable under section 234F shall also be taken into account.

Consequently, it is also proposed that the provisions of section 271F in respect of penalty for failure to furnish return of income shall not apply in respect of assessment year 2018-19 and onwards.

These amendments will take effect from 1st April, 2018 and will, accordingly apply in relation to assessment year 2018-19 and subsequent years.



Exemption of long term capital gains tax

Under the existing provisions of the Section 10(38) of the Income-tax Act, 1961, the income arising from a transfer of long term capital asset, being equity share of a company or a unit of an equity oriented fund, is exempt from tax if the transaction of sale is undertaken on or after 1st October, 2014 and is chargeable to Securities Transaction Tax under Chapter VII of the Finance (No. 2) Act, 2004.

It has been noticed that exemption provided under section 10(38) is being misused by certain persons for declaring their unaccounted income as exempt long-

term capital gains by entering into sham transactions. With a view to prevent this abuse, it is proposed to amend section 10(38) to provide that exemption under this section for income arising on transfer of equity share acquired or on after 1st day of October, 2014 shall be available only if the acquisition of share is chargeable to Securities Transactions Tax under Chapter VII of the Finance (No 2) Act, 2004. However, to protect the exemption for genuine cases where the Securities Transactions Tax could not have been paid like acquisition of share in IPO, FPO, bonus or right issue by a listed company acquisition by non-

resident in accordance with FDI policy of the Government etc., it is also proposed to notify transfers for which the condition of chargeability to Securities Transactions Tax on acquisition shall not be applicable.

This amendment will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent assessment years.



Transparency in Electoral Funding



The existing provisions of section 13A of the Act, inter-alia provides that political parties that are registered with the Election Commission of India, are exempt from paying income-tax. To avail the exemption, the political parties are required to submit a report to the Election Commission of India as mandated under sub-section (3) of section 29C of the Representation of the People Act, 1951 (43 of 1951) furnishing the details of contributions received by a political party in excess of Rs.20,000 from any person. However, under existing provisions of the Act, there is no restriction of receipt of any amount of donation in cash by a political party.

Secondly, a political party is also required to file its return of income under section 139 (4B) of the Act, if its income exceeds the maximum

amount not chargeable to tax (without considering the exemption under section 13A). However, filing of the return is not a condition precedent for availing exemption under the said section.

In order to discourage the cash transactions and to bring transparency in the source of funding to political parties, it is proposed to amend the provisions of section 13A to provide for additional conditions for availing the benefit of the said section which are as under:

- (i) No donations of Rs.2000/- or more is received otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through electoral bonds,
- (ii) Political party furnishes a return of income for the previous year in accordance with

the provisions of sub-section (4B) of section 139 on or before the due date under section 139.

Further, in order to address the concern of anonymity of the donors, it is proposed to amend the said section to provide that the political parties shall not be required to furnish the name and address of the donors who contribute by way of electoral bond.

This amendment will take effect from 1st April, 2018 and will, accordingly, apply in relation to assessment year 2018-19 and subsequent years.

Guide to Online verify Cash Deposits

1. Background

Income Tax Department (ITD) intends to leverage technology and data analytics for effective utilization of demonetisation data i.e. transactions related to cash deposits during 9th Nov to 30th Dec 2016.

2. Overview of online verification

The online verification has been enabled on e-filing portal (for taxpayers) which will

be synchronised with the internal verification portal of ITD. The salient features of online verification mechanism are:

- i. Data analytics has been used for comparison of demonetisation data with information in ITD databases to identify taxpayers wherein the cash transactions do not appear to be in line with the taxpayer's profile.
- ii. ITD has enabled online verification of these transac-

tions to reduce compliance cost for the taxpayers while optimising its resources. The information in respect of these cases has been made available in the e filing window of the PAN holder (after log in) at the portal <https://incometaxindiaefiling.gov.in>. The PAN holder can view the information using the link "Cash Transactions 2016" under "Compliance" section of the portal. The taxpayer will be



able to submit online explanation without any need to visit Income Tax office.

iii. Email and SMS will also be sent to the taxpayers for submitting online response on the e-filing portal. Taxpayers who are not yet registered on the e-filing portal (at <https://incometaxindiaefiling.gov.in>) should register by clicking on the 'Register' button. Registered taxpayers should verify and update their email address and mobile number on the e-filing portal to receive electronic communication.

iv. This user guide and quick reference guide is available on the portal to assist the taxpayer in submitting online response. In case of any difficulty in submitting online response, help desk at 1800 4250 0025 may be contacted.

v. Data analytics will be used to select cases for verification, based on approved risk. If the case is selected for verification, request for additional information and its response will also be communicated electronically. The information on the online portal will be dynamic getting updated on receipt of new information, response and data analytics.

vi. The response of taxpayer will be assessed against available information. In case explanation of source of cash is found justified, the verification will be closed without any need to visit Income Tax Office. The verification will also be closed if the cash deposit is declared under Pradhan Mantri Garib Kalyan Yojna (PMGKY).

3. Communication with the taxpayers

Email and SMS will be sent to the taxpayer informing that information has been received in the case and response may be submitted on the e-filing portal. In cases where no response is received within reasonable time, other

proceedings and enforcement actions will be considered.

4. Viewing information

The information relating to cash deposits will be displayed to the PAN holder in the e-filing portal (after log in). The taxpayer can view the information as under:

Step 1: Login to e-filing portal at <https://incometaxindiaefiling.gov.in>.

Step 2: Click on "Cash Transactions 2016" link under "Compliance" section.

Step 3: The details of transactions related to cash deposits during 9th Nov to 30th Dec 2016 will be displayed.

Cash transaction data is only shown in cases where it does not appear to be in line with the taxpayer profile.

The information on the online portal will be dynamic and will be updated on receipt of new information, response and data analytics.

5. Submission of response

The taxpayer response is in two steps. In the first step the taxpayer needs to confirm that the bank account relates to the PAN of the taxpayer. Further details are required to be provided in the second step only if the taxpayer confirms that the account relates to the taxpayer.

5.1 Confirmation of account

The user is provided with two options i.e. "The account relates to this PAN" and "The account does not relate to this PAN". If the user selects the response option "The account relates to this PAN" the screen for capturing details will be displayed to the user.

If the user selects the response option "The Account does not relate to this PAN" then message "Your feedback will be sent to the information source for confirma-

tion" will be displayed. On clicking the submit button, the success message along with Transaction ID is displayed on the Screen.

If the account belongs to the PAN but the value of cash deposit is not correct, the user should select the response option "The account relates to this PAN". The correct value of cash deposit can be submitted in the details screen.



5.2 Explanation of cash deposit

If the user selects the response option "The account relates to this PAN" the screen for capturing details will be displayed to the user. At this stage, the user will be able to modify the value of cash deposit (if it is different than the displayed value). The user will also be able to provide the explanation of transaction (source of cash deposit) digitally without visiting the Income tax office.

5.3 Important aspects regarding submission of response Following aspects may be considered while providing the response:

i. If the cash deposit amount displayed under A.4 is not correct, please mention the correct amount under A.5. ITD intends to refer such cases to the information source for confirmation.

ii. If cash is claimed to be from more than one category (or out of cash in hand), the source of cash may be assigned under various categories in the following sequence (Adopting other sequence may result in case being selected for verification based on risk criteria)

- a) Cash withdrawn out of bank account
- b) Cash received from identifiable persons (with PAN)





c) Cash received from identifiable persons (without PAN)

d) Cash received from un-identifiable persons

e) Cash out of receipts exempt from tax

f) Cash out of earlier income or savings

g) Cash Disclosed/To be disclosed under PMGKY

iii. In case there are multiple entries, facility has been provided for online submission as well as upload of CSV (Comma Separate Values).

iv. In case cash is claimed to be withdrawn out of bank account, the account wise details are required to be provided

v. In case cash is received from other persons (on account of cash sales, loan, gift, donation etc.), it should be mentioned under B.4, B.5 or B.6 as the case may be. The nature of cash transaction can be mentioned while providing the details.

vi. If cash is claimed to be out of receipts exempt from tax (agricultural income etc. but excluding cases of gift, donation etc. which have been

covered earlier), further details can be provided under remarks. In case the amount is received as donation, gift, loan, the details may be provided under B.4, B.5 or B.6 as the case may be. If receipts exempt from tax (Refer B.2) is not in line with the taxpayer profile or other available information, the case may be selected for verification based on risk criteria.

vii. If cash is claimed to be out of earlier income or savings, further details can be provided under remarks. If this information (Refer B.1) is not in line with the taxpayer profile or other available information, the case may be selected for verification based on risk criteria.

viii. The sum of all sources of cash deposits (B.1 to B.7) should match with the confirmed cash deposit amount (A.5) such that balance (refer B.8) is computed as 0.

The user can view submitted responses by clicking on “View” button against the respective Bank Account. User can view/download the response submitted by click-

ing on “Transaction No”.

The user can revise the submitted response by clicking on the “Submit” button

6. Verification of case

Some cases will be selected for verification based on risk criteria. If the case is selected for verification, request for additional information and its response will also be communicated digitally. The information request will be communicated to the PAN holder with a hyperlink for uploading information. An e-mail concerning the additional information will be sent to the e-mail id of the taxpayer.

The response of taxpayer will be assessed against available information and in case explanation of source of cash is found to be justified, the verification will be closed without any need to visit Income Tax Office. If cash deposit is declared under PMGKY, the verification will be closed.



Budget 2017: Key changes in Custom Duty

Changes in Section 2 of the Customs Act:

Section 2 of the Customs Act contains various definitions.

Section 2 has been amended to:

- 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;

- Include Foreign Post Office and International Courier Terminal is included in the definition

of a Customs Station in clause (13);

- Omit certain words are omitted in clause (13) to align with the proposed omission of Section 82;
- Provide that the existing definition of exporter in clause (20) includes the

beneficial owner;

- Provide that the existing definition of importer in clause (26) includes the beneficial owner;
- Insert clause (30B) so as to define passenger name record information;
- Define Foreign Post Office and International Courier Terminal.

Changes in Section 7 of the Customs Act:

Section 7 of the Customs Act contains provisions regarding appointment of customs ports, airports etc.

Section 7 has been amended to empower the Board to notify Foreign Post Offices and International Courier Terminals.

Changes in Section 17 of the Customs Act:

Section 17 of the Customs Act contains provisions regarding assessment of duty.

Section 17 has been amended to rationalize the requirement of documents for verification of self assessment.

Changes in Section 27 of the Customs Act:

Section 27 of the Customs Act contains provisions regarding claim for refund of duty.

Sub-section (2) of section 27 has been 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-

- such excess payment is evident from the bill of entry in the case of self assessed bill of entry or
- the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.

Legislative changes regarding Authority for Advance Ruling:

Changes in Section 28E of the Customs Act:

Section 28E of the Customs Act contains various definitions for Advance Ruling.

Clause (e) of Section 28E has been amended so as to substitute the definition of "Authority" to mean the Authority for Advance Ruling as constituted under Section 245-0 of the Income Tax Act, 1961.

Changes in Section 28F of the Customs Act:

Section 28F of the Customs Act contains provisions regarding Authority for Advance Rulings.

Section 28F has been amended so as to provide that the Authority for Advance Rulings constituted under Section 245-0 of the Income Tax Act, 1961 shall be the Authority for giving advance rulings for the purposes of the Customs Act.

It is further provided that the Member of the Indian Revenue Service (Customs and Central Excise), who is qualified to be a Member of the Board, shall be the revenue Member of the Authority for the purposes of the Customs Act.

It is also provided for transferring the pending applications before the Authority for Advance Rulings (Central Excise, Customs and Service Tax) to the Authority constituted under Section 245-0 of the Income Tax Act, 1962 from the stage at which such proceedings stood as on the date on which the Finance Bill, 2017 receives the assent of the President.

Changes in Section 28G of the Customs Act:

Section 28G of the Customs Act provides that no proceeding before, or pronouncement of advance ruling by, the Authority shall

be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

Section 28G relating to vacancies not to invalidate proceedings has been omitted.

Changes in Section 28H of the Customs Act:

Section 28H of the Customs Act contains provisions regarding application for Advance Ruling.

Sub-section (3) of Section 28H has been amended so as to increase the application fee for seeking advance ruling from Rs. 2,500/- to Rs. 10,000/- on the lines of the Income Tax Act, 1961.

Changes in Section 28I of the Customs Act:

Section 28I of the Customs Act contains the procedure of Advance Ruling after receipt of application.

Sub-section (6) of Section 28I has been amended so as to extend the existing time limit of 90 days to 6 months by which time the Authority shall pronounce its ruling, on the lines of the Income Tax Act, 1961.

Insertion of Section 30A in the Customs Act:

A new Section 30A has been 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 as may be specified by the Central Government by notification in the Official Gazette, to deliver to the proper officer the passenger and crew arrival manifest before arrival in the case of an aircraft





or a vessel and upon arrival in the case of a vehicle; and passenger name record information of arriving passengers in such form, containing such particulars, in such manner and within such time as may be prescribed. The said section also intends to provide for imposition of a penalty not exceeding Rs. 50,000/- as may be prescribed, in the case of delay in delivering the information.

Insertion of Section 41A in the Customs Act:

A new Section 41A has been introduced so as to make it obligatory on the person-in-charge of a conveyance that departs from India to a place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, to deliver to the proper officer the passenger and crew departure manifest and passenger name record information of departing passengers before the departure of the conveyance in such form, containing such particulars, in such manner and within such time as may be prescribed. The section also intends to provide for a penalty not exceeding Rs. 50,000/- as may be prescribed in the case of delay in delivering the information.

Changes in Section 46 of the Customs Act:

Section 46 of the Customs Act contains the provisions regarding entry of goods on importation.

Sub-section (3) of Section 46 has been 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 at which such goods are to be cleared for home consumption or warehousing and to provide for imposition of such charges for late presentation of the bill of entry as may be prescribed.

Changes in Section 47 of the Customs Act:

Section 47 of the Customs Act contains the provisions regarding clearance of goods for home consumption.

Sub-section (2) of Section 47 has been amended so as to provide the manner of payment of duty and interest thereon in the case of self-assessed bills of entry or, as the case may be, assessed, reassessed or provisionally assessed bills of entry.

Changes in Section 49 of the Customs Act:

Section 49 of the Customs Act contains the provisions regarding storage of imported goods in warehouse pending clearance.

Section 49 has been amended to extend the facility of storage under Section 49 to imported goods entered for warehousing before their removal.

Changes in Section 69 of the Customs Act:

Section 69 of the Customs Act contains the provisions regarding clearance of warehoused goods for exportation.

Section 69 has been amended to align it with the proposed omission of Section 82.

Changes in Section 82 of the Customs Act:

Section 82 of the Customs Act contains the provisions regarding label or declaration accompanying goods to be treated as entry.

Section 82 has been omitted.

Changes in Section 84 of the Customs Act:

Section 84 of the Customs Act contains the provisions of regulations regarding goods imported or to be exported by post.

Section 84 has been amended to empower the Board to make regulations to provide for the form and manner in which an entry may be made in respect of goods imported or to be exported by post.

Legislative changes regarding Settlement of Cases:

Changes in Section 127B of the Customs Act:

Section 127B of the Customs Act contains the provisions regarding application for settlement of cases.

Section 127B has been amended so as to insert a new sub-section (5) therein to enable any person, other than applicant, referred to in sub-section (1) to make an application to the Settlement Commission.

Changes in Section 127C of the Customs Act:

Section 127C of the Customs Act contains the provisions regarding procedure on receipt of an application for settlement of cases

Sub-section (3) of Section 127C has been amended so as to substitute certain words therein. It further seeks to insert a new sub-section (5A) therein to enable the Settle-



ment Commission to amend the order passed by it under sub-section (5), to rectify any error apparent on the face of record.

Changes in Section 157 of the Customs Act:

Section 157 of the Customs Act contains the provisions regarding general power to make regulations.

Section 157 has been amended so as to empower Board to make regulations for specifying the form, particulars, manner and time of providing the passenger and crew manifest for arrival and departure and passenger name record information and penalty in the case of delay in delivering the information.

Amendments in the Customs Tariff Act, 1975:

Changes in Section 9 of the Customs Tariff Act

Section 9 of the Customs Tariff Act contains the provisions regarding Countervailing duty on subsidized articles.

Clause (c) of sub-section (3) of

Section 9 has been substituted so as to withdraw the exemption to three categories of non-actionable subsidies specified therein from the scope of anti-subsidy investigations.

Amendment in the First Schedule to the Customs Tariff Act, 1975 (“the Customs Tariff Act”):

Amendments not affecting rates of duty:

Amendments have been made to:

- Delete tariff items 1302 32 10 and 1302 32 20 and entries relating thereto and create new tariff items 1106 10 10 and 1106 10 90, in relation to Guar meal and its products to harmonize the Customs Tariff with HS Nomenclature.
- Create new tariff item 1511 90 30 for Refined bleached deodorised palm stearin” to harmonize the Customs Tariff in accordance with WCO classification decision.
- Substitute tariff items 3823 11 11 to 3823 11 90 and

entries relating thereto with tariff item 3823 11 00.

- Substitute tariff items 3904 10 10 to 3904 22 90 with tariff items 3904 10 10 to 3904 22 00 in relation to the PVC Resin

Chapter Note (4) of Chapter 98 has been amended so as to remove the non-applicability of headings 9803 and 9804 to goods imported through courier service. Also, to amend heading 9804 so as to extend the classification of personal imports by courier, sea, or land under this heading.



Budget 2017: Key changes in Excise Duty

Changes in Customs and Central Excise law and rates of duty have been proposed through the Finance Bill, 2017. In order to prescribe effective rates of duty and to carry out changes in the Rules made under the respective Acts, the following notifications are being issued:

Customs Tariff: Notification No.: 3/2017-Customs to No.6/2017-Customs Dated: 02.02.2017

Central Excise Tariff: Notification No.: 3/2017-Central Excise to No.7/2017- Central Excise Dated: 02.02.2017

Central Excise Non-Tariff: Notification No.: 2/2017-Central Excise (N.T.) to No.5/2017-Central Excise (N.T.)

Unless otherwise stated, all changes in rates of duty take effect from the midnight of 1st February / 2nd February, 2017. A declaration has been made under the Provisional Collection of Taxes Act, 1931 in respect of clauses 109 (a), 110, 118 and 146 of the Finance Bill, 2017 so that changes proposed therein take effect from the midnight of 1stFebruary / 2ndFebruary, 2017. The remaining legislative changes

would come into effect only upon the enactment of the Finance Bill, 2017.

UNDER EXCISE:

Amendments in the Central Excise Act, 1944 (“the Excise Act”):

Legislative changes regarding Authority for Advance Ruling:

Changes in Section 23A of the Excise Act:

Section 23A of the Excise Act contains various definitions for Advance Ruling. Clause (e) of Section 23A has been amended so as to





substitute the definition of "Authority" to mean the Authority for Advance Ruling as constituted under Section 28E of the Customs Act, 1962.

Section 28E of the Customs Act, 1962, has also been amended so as to substitute the definition of "Authority" to mean the Authority for Advance Ruling as constituted under Section 245-O of the Income Tax Act, 1961.

Changes in Section 23B of the Excise Act:

Section 23B of the Excise Act provides that no proceeding before, or pronouncement of advance ruling by, the Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

Section 23B relating to vacancies not to invalidate proceedings has been omitted.

Changes in Section 23C of the Excise Act:

Section 23C of the Excise Act contains provisions regarding application for Advance Ruling.

Sub-section (3) of Section 23C has been amended so as to increase the application fee for seeking advance ruling from Rs. 2,500/- to Rs. 10,000/- on the lines of the Income Tax Act, 1961.

Changes in Section 23D of the Excise Act:

Section 23D of the Excise Act contains the procedure of Advance Ruling after receipt of application.

Sub-section (6) of Section 23D has been amended so

as to extend the existing time limit of 90 days to 6 months by which time the Authority shall pronounce its ruling, on the lines of the Income Tax Act, 1961.

Insertion of New Section 23-I after Section 23H of the Excise Act:

A new Section 23-I, providing transition provisions, has been inserted, after Section 23H, so as to provide for transferring of the pending applications before the Authority for Advance Rulings (Central Excise, Customs and Service Tax) to the Authority constituted under Section 245-O of the Income Tax Act, 1961, from the stage at which such proceedings stood as on the date on which the Finance Bill, 2017 receives the assent of the President.

Legislative changes regarding Settlement of Cases:

Changes in Section 32E of the Excise Act:

Section 32E of the Excise Act contains the provisions regarding application for settlement of cases.

Section 32E has been amended so as to insert a new sub-section (5) therein to enable any person, other than assessee, referred to in sub-section (1) to make an application to the Settlement Commission.

Changes in Section 32F of the Excise Act:

Section 32F of the Excise Act contains the provisions regarding procedure on receipt of an application for settlement of cases

Sub-section (3) of Section 32F has been amended so as to substitute certain words therein. It further seeks to insert a new sub-section (5A) therein to enable the Settlement Commission to amend the order passed by it under sub-section (5), to rectify any error apparent on the face of record.

Clarification regarding applicability of Section 5A of the Excise Act in respect of inputs imported or exported by EOU

Section 5A of the Excise Act provides that unless specifically provided in a notification, no exemption therein shall apply to excisable goods which are produced or manufactured by an Export Oriented Units ("EOU") and cleared to the Domestic Tariff Area ("DTA").

It has been clarified that non-applicability of exemptions under notifications issued under Section 5A is only in respect of excisable goods produced or manufactured by an EOU and cleared to DTA and not in respect of inputs/raw materials procured by them domestically and utilised for production/manufacture of goods which are cleared by them to DTA.

Thus, EOU will also be eligible to import or procure raw materials/inputs at other concessional/Nil rate of Basic Customs Duty ("BCD"), Excise duty/Additional Duty of Customs ("CVD") or Special Additional Duty ("SAD"), as the case may be, provided they fulfill all conditions for being eligible to such concessional or Nil duty. For these purposes, if an EOU is already





registered with the jurisdictional Central Excise Authority, it will not be required to take any fresh registration under the Customs

(Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 or the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable and Other Goods) Rules, 2016, as the case may be. Further, there will be no need for an EOU to separately comply with the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 for availing the CVD exemption, if the procedure under the

Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rule, 2016 is followed by it for availing exemption / concession from BCD on imports of inputs/raw materials.

Penalty on Professionals u/s 271J

The thrust of the Government in recent past is on voluntary compliance. Certification of various reports and certificates by a qualified professional has been provided in the Act to ensure that the information furnished by an assessee under the provisions of the Act is correct. Various provisions exist under the Act to penalise the defaulting assessee in case of furnishing incorrect information. However, there exist no penal provision for levy of penalty for furnishing incorrect information by the person who is responsible for

certifying the same.

In order to ensure that the person furnishing report or certificate undertakes due diligence before making such certification, it is proposed to insert a new section 271J so as to provide that if an accountant 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 Commissioner (Appeals) may direct him to pay a sum of ten thousand rupees for each such report

or certificate by way of penalty.

It is further proposed to define the expressions "accountant", "merchant banker" and "registered valuer". It is also proposed to provide through amendment of section 273B that if the person proves that there was reasonable cause for the failure referred to in the said section, then penalty shall not be imposed in respect of the proposed section 271J.

These amendments will take effect from 1st April, 2017.

PAN / TAN to be applied compulsorily

As part of the Ministry's efforts towards providing greater Ease of Doing Business to stakeholders, Form SPICe (INC-32) will be revised w.e.f 21 January 2017 so as to include the functionality of applying for Company PAN and first TAN (allotted by Income Tax Deptt) in the Incorporation form itself. Applying for PAN / TAN will

be compulsory for all fresh incorporation applications filed in the new version of the SPICe form on or after 23 January 2017.

Stakeholders are advised to download new version of SPICe form for all fresh applications from this date. For cases marked for resubmission prior to 23 January 2017, stakeholders are required to

download older version of SPICe form for resubmission.





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Exit Order In Respect Of Delhi Stock Exchange Limited

1. SEBI vide Circular dated May 30, 2012 had issued Guidelines for exit of stock exchanges. This contained details of the conditions for exit of de-recognised/non-operational stock exchanges including treatment of assets of de-recognised/non-operational exchanges and a facility of Dissemination Board for companies listed exclusively on such exchanges, while taking care of the interest of investors.

2. Whole Time Member, SEBI, has passed an Order on January 23, 2017

providing exit to Delhi Stock Exchange Limited ("DSE"). DSE is the eighteenth Stock Exchange to exit under this policy.

3. Further, the Income Tax Authorities, Ministry of Corporate Affairs and the State Government of Delhi are being intimated about the exit of DSE, for appropriate action at their end.

4. The full text of the order is available on the website: www.sebi.gov.in



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