

LET'S HEAR THE RHYTHM OF ECONOMY



# INDIA BUDGET 2012

VOICE FROM

AGARWAL & DHANDHANIA

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# Foreword

Dear Reader,

While rising to table this year's union budget, Mr. Pranab Mukherjee quoted Shakespeare's immortal words "I must be cruel only to be kind". The quotation was enough for all to understand that what was coming was more cruel and less kind. This year's spending went over-board by nearly a third. That is an appalling record. There have been slippages in the past decade – but never of this magnitude (except in the year of financial crisis). He has made a virtue of honesty by hanging out the linen. He appears contrite and in a mood to make amends. Hopefully, he will not want to go down in history as the man who let down the country.

He identified five objectives to be addressed effectively in ensuing fiscal year, which includes focus on domestic demand driven growth recovery, rapid revival of growth in private investment, address supply bottlenecks in agriculture, energy and transport sectors, address malnutrition and address black money and corruption in public life. Ensuring promising future, Twelfth Five Year Plan is to be launched with the aim of "faster, sustainable and more inclusive growth". He attributed the economic slowdown this year to intensification of debt crises in Euro zone, political turmoil in Middle East, rise in crude oil price and earthquake in Japan. At this juncture, it is necessary to take hard decision to improve macroeconomic environment and strengthen domestic growth drivers.

Addressing inflation is the need of the hour. Forget any effective steps towards this, budget brings few more provisions which have vital impact on the common man. Service sector has been a pampered earning son since beginning. By increasing rate from existing 10% to 12% and widen the number of taxable services (all but 17) will further inflate the prices. Customs peak rate though untouched but increase in Excise duty rates will result in to a revenue gain nearing Rs. 45000 cr from indirect taxes but this is enough to eat household budget of a common man.

Relaxation in tax slabs, enhancing limit for tax audit, deduction for saving bank interest and health check up expenses are few direct tax amendment giving partial relief to all. DTC and GST are as expected, further deferred.

Agriculture will remain in priority sector. Out of few good steps, one important is plan outlay for Department of Agriculture and Co-operation is increased by 18 %.

Towards fiscal consolidation, concept of "Effective Revenue Deficit" and "Medium Term Expenditure Framework" statement are two important features of amendment to FRBM Act in the direction of expenditure reforms. There are recommendations of the Expert Committees to streamline and reduce the number of centrally sponsored schemes and to address plan and non-plan classification to be kept in view while implementing Twelfth Plan. Central Plan Scheme Monitoring System to be expanded for better tracking and utilization of funds. Putting ceiling in subsidies and further lowering it is now unavoidable.

Anna factor appears to be have made some impact. Transparency and eradicating corruption is slightly touched. A mobile-based Fertilizer Management System has been designed to provide end to end information on movement of fertilizers and subsidies. Nation-wide roll out is expected during 2012. Black money may also change its colour in time to come.

From a capital market perspective, there are two key positives. One is the Rajiv Gandhi Equity Savings Scheme which offers a 50% deduction in income tax to new retail investors, who invest up to Rs 50,000 directly in equities and whose annual income is below Rs 10 lakh. The other proposal is to slash securities transaction tax (STT) on delivery-based trades from 0.125% to 0.100%. Both proposals left the market cold, as the widely held view is that the proposals are no game changers like the one to abolish long term capital gains tax was.

To some extent, it is correct what FM said in his speech that "the life of a Finance Minister is not easy, Economic policy, as in medical treatment, often requires us to do something, which, in the short run, may be painful, but is good for us in the long run".

The Budget can be faulted for reversing an adverse judgment of the Supreme Court in the Rs 11,000 crore Vodafone tax case through a retrospective amendment. The government says it is within rights to make the legislation. No one questions the government's competence. But the move smacks of legislative arrogance.

The FM has tried to create an enabling atmosphere for corporates, farmers, entrepreneurs and workers to take initiatives for robust growth. The aim is also to ensure that the benefits of growth reach all sections of population. India stands on the brink of a major resurgence. If India can build on its economic strength, it can be a source of stability for world economy and a safe destination for restless global capital.

### **Publication Team**

**Agarwal & Dhandhania**

## **Economic Performance 2011-12**

### **An Overview**

Happy to note that by any cross country comparison, India remains one of the fastest growing economies in the world. Suggesting a rebound, the government has projected the economy to grow by about 7.6 per cent (plus or minus 0.25 per cent) in the next fiscal 2012-13, up from 6.9 per cent estimated in 2011-12 and to further improve to 8.6 per cent in 2013-14.

At the same time, sight must not be lost of the fact that except of the year 2008-09 when the growth rate was 6.7 per cent, the growth in real GDP in 2011-12 has been the lowest in nine years. The pre-budget Economic Survey 2011-12 was tabled in parliament on March 15, 2012. Economic Survey 2010-11 had anticipated that the Indian economy would register growth of around 9 per cent (+ or - 0.25 per cent) in 2011-12, almost reverting to the pre-crisis levels achieved during the three-year period 2005-06 to 2007-08. However the economy growth in this year is estimated to be only 6.9 % by March end. The growth in Agriculture and Services has been good so India's slowdown can be attributed almost entirely to weakening industrial growth. The manufacturing sector grew by 2.7 per cent and 0.4 per cent in the second and third quarters of 2011-12. Managing growth and price stability are the major challenges of macroeconomic policymaking. In 2011-12, India found itself in the heart of these conflicting demands. Inflation as measured by the wholesale price index (WPI) was high during most of the current fiscal year, though by the year's end, there was a clear slowdown. Monetary policy was tightened by the Reserve Bank of India (RBI) during the year to control inflation and curb inflationary expectations. The slowing inflation reflects the lagged impact of actions taken by the RBI and the government. Reflecting the weak manufacturing activity and rising costs, revenues of the centre have remained less than anticipated; and, with higher than budgeted expenditure outgo, a slippage is expected on the fiscal side. The global economic environment, which has been tenuous at best throughout the year, turned sharply adverse in September 2011 owing to the turmoil in the eurozone, hardening international prices of crude oil, which always has a large effect on India and questions about the outlook

on the US economy provoked by rating agencies. However, for the Indian economy, the outlook for growth and price stability at this juncture looks more promising. There are signs from some high frequency indicators that the weakness in economic activity has bottomed out and a gradual upswing is imminent.

The growth rate of investment in the economy is estimated to have registered a significant decline during the current year. The year has been witnessing a sharp increase in interest rates that resulted in higher costs of borrowings; and other rising costs affecting profitability and, thereby, internal accruals that could be used to finance investment.

Despite difficult conditions in the global economy, exports continued to be robust in the current year and registered a growth rate of 14.3 per cent in real terms over and above 22.7 per cent growth achieved in the previous year (2010-11), as per

Advance Estimates. Imports are likely to end the year with a real growth rate of 17.5 per cent as against 15.6 per cent in 2010-11. It may further be noted that international trade (exports and imports) as per national accounts is now around 53 per cent of GDP, up from a level of 37 per cent in 2004-05.

Fiscal consolidation is likely to get back on track from 2012-13, when savings and capital formation will also begin to improve. Moreover, with the easing of inflationary pressure in the months to come, there could be reduction in policy rates by the RBI, which would encourage investment that could have a positive impact on growth.

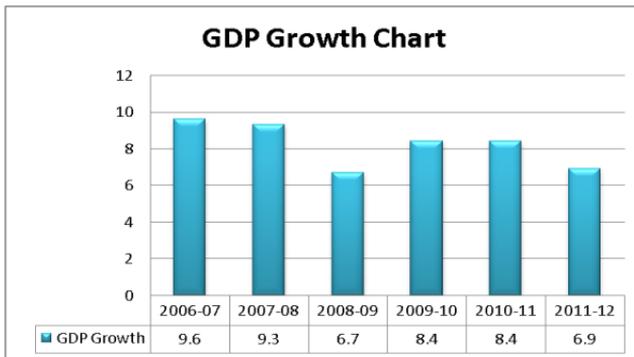
## **Survey At A Glance**

-  The country's economic growth estimated at 6.9 per cent in the current fiscal; growth momentum to pick up in next two fiscals to 7.6 per cent 2012-13 and 8.6 per cent in 2013-14. Outlook for growth and stability promising.
-  RBI expected to lower policy interest rates, as inflationary pressures expected to ease in coming months; A low interest rate

regime to encourage investment activity and push forward economic growth.

- Steps required for deepening of domestic financial markets, especially corporate bond market and attracting longer-term inflows from abroad; Efforts at attracting dedicated infrastructure funds have begun.
- India remains one of the fastest growing economies of the world; Country's sovereign credit rating rose by a substantial 2.98 per cent 2007-12.
- Exports grew by 40.5 per cent in the first half of this fiscal and imports grew by 30.4 per cent. Foreign trade performance to remain key driver of growth.
- Forex reserves expanded further, covering almost the entire external debt stock to the country.
- Food grain's production likely to cross 250.42 million tonnes; largely on back of increase in rice production.
- The growth rate of investment in the economy is estimated to have declined significantly; borrowing costs up due to a sharp increase in interest rates.
- High borrowing costs and increase in other costs affecting profitability and internal accruals.
- Slowdown in Indian economy largely due to global factors, as also because of domestic factors like tightening of monetary policy, high inflation and slower investment and industrial activities.
- Inflation high, but showing clear signs of slowdown by the year-end; Whole-sale food inflation down to 1.6 per cent in January 2012 from 20.2 per cent in February 2010.
- Farm sector growth pegged at 2.5 percent for 2011-12.
- Services sector to grow at 9.4 percent.
- Services sector share in GDP to go up to 59 percent in the fiscal ending March 31.
- Industrial growth pegged at 4-5 percent, expected to improve as economic recovery resumes.
- Inflation on WPI was high but showed clear slow down by the year-end. This is likely to spur investment activities leading to positive impact on growth.
- WPI food inflation dropped from 20.2 percent in February 2010 to 1.6 percent in January 2012.

- ↗ Calibrated steps initiated to rein-in inflation on top priority.
- ↗ India remains among the fastest growing economies of the world.
- ↗ Fiscal consolidation on track - savings and capital formation expected to rise.
- ↗ Foreign trade performance to remain a key driver of growth.
- ↗ Central spending on social services goes up to 18.5 percent this fiscal from 13.4 percent in 2006-07.
- ↗ Savings & Capital Formation expected to rise
- ↗ MNREGA coverage of 5.49 crore households in FY 11
- ↗ Sustainable development and climate change high priority
- ↗ Tenuous global economic environment turned sharply adverse in September, 2011
- ↗ Euro-zone crisis responsible for international downturn
- ↗ Efforts on to attract dedicated infrastructure funds



## Sector wise Performance

### Agriculture & Allied Sectors

Agriculture including allied activities accounted for 13.9 per cent of GDP at 2004-5 prices in 2011-12 as compared to 14.5 per cent in 2010-11. In terms of composition, out of a total share of 14.5 per cent in GDP in 2010-11, agriculture alone accounted for 12.3 per cent, followed by forestry and logging at 1.4 per cent, and fishing at 0.7 per cent. The sector recorded slightly lower average growth than targeted in the Eleventh Plan period due to severe drought experienced in most

parts of the country during 2009-10 and drought/ deficient rainfall in some states, namely Bihar, Jharkhand, eastern UP, and West Bengal in 2010-11. However, timely and corrective measures taken by the government helped boost agricultural production and growth in the sector reached 7.0 per cent in 2010-11, the highest growth rate achieved during the last six years. In 2010-11 a significantly high level of 244.78 million tonnes of foodgrains production was achieved. As per the second AE, production of foodgrains during 2011-12 has been estimated at 250.42 million tones.

### **Industry & Infrastructure**

Growth had reached 15.5 per cent in 2007-8 and then started decelerating. Initial deceleration in industrial growth was largely on account of the global economic meltdown. There was, however, a recovery from 2.5 per cent in 2008-9 to 5.3 per cent in 2009-10 and 8.2 per cent in 2010-11. Fragile economic recovery in the US and Europe and moderately subdued expectations at home affected the growth of the industrial sector in the current year. Overall growth during April-December 2011 reached 3.6 per cent compared to 8.3 per cent in the corresponding period of the previous year.

There was a contraction in production in the mining sector, particularly the coal and natural gas segments. Contraction in output also resulted in its contribution to growth turning negative. The electricity sector witnessed an improvement in growth in the current year.

Corporate-sector sales are another indicator of industrial performance. Abridged financial results of the listed manufacturing companies indicate robust sales growth (in nominal terms) during 2011-12. In the first three quarters of the current year, sales growth has varied between 20 and 25 per cent. Sales growth has moderated from a peak of 34.9 per cent in fourth quarter of 2009-10 to 22.6 per cent in the third quarter of the current financial year. However, it is better than the 19.0 per cent growth in the same period of the previous year.

Production in eight core industries grew by 0.5 per cent in January 2012 as compared to 6.4 per cent in January 2012.

Electricity generation by power utilities during 2011-12 was targeted to grow by 5.4 per cent to reach 855 billion units. Growth in power generation during April-January 2011-12 was 8.6 per cent as compared to 5.2 per cent during April-January 2010-11. In the first nine months of 2011, 76 per cent of the generation target had been achieved. The overall plant load factor (PLF), a measure of efficiency of thermal power stations, at 72.1 per cent during April-December 2011 was marginally lower than the PLF of 72.9 per cent achieved during April-December 2010. The PLF in the current year, however, exceeded the target of 68.2 per cent for the first three quarters.

Freight loading on Indian Railways was 618.0 MT during April-November 2011 as compared to 593.4 MT in April-November 2010, registering an increase of 4.14 per cent. This was 26.6 MT short of the proportionate target of 644.6 MT. The low growth was primarily on account of relatively slow growth in core sectors of the economy.

## **Service Sector**

The share of services in India's GDP at factor cost (at current prices) increased from 33.5 per cent in 1950-1 to 55.1 per cent in 2010-11 and 56.3 per cent in 2011-12 as per Advance Estimates. Trade, hotels, and restaurants as a group, with 16.9 per cent share, is the largest contributor to GDP among the various services sub-sectors, followed by financing, insurance, real estate, and business services with 16.4 per cent share. The services sector growth rate at constant prices has always been above the overall GDP growth rate since 1996-97 except for 2003-4. The compound annual growth rate (CAGR) of the services sector at 10.2 per cent for the period 2004-5 to 2010-11 has been higher than the 8.6 per cent GDP growth rate during the same period. In the years 2009-10 and 2010-11, the services sector registered a growth rate of 10.5 per cent and 9.3 per cent respectively. In 2011-12, as per the Advance Estimates, the growth rate of services has been placed at 9.4 per cent.

While agriculture continues to be the primary employment-providing sector, the services sector is the principal source of employment in urban areas.

### **Monetary Management**

Reining in inflation and containing inflationary expectations were the dominating objectives of monetary policy during 2011-12. The RBI hiked the repo rate 13 times between March 2010 and January 2012, cumulatively by 375 basis points (bps).

Significant changes in the operating procedure of monetary policy have been effected with the weighted average overnight call money rate made the operating target and the repo rate specified as the only independently varying policy rate.

During 2011-12, the growth rate in reserve money (M0) has been 1.9 per cent (as on 10 February 2012) while broad money (M3) growth has been 10.2 per cent (as on 27 January 2012). Year-on-year, nonfood credit growth was 15.7 per cent at the end of December 2011.

### **Foreign Exchange Reserves & Rates :**

In fiscal 2010-11, foreign exchange reserves increased by US\$ 25.7 billion from US\$ 279.1 billion at end March 2010 to US\$ 304.8 billion at end March 2011. Of the total increase in reserves, US\$ 12.6 billion was on account of valuation gains arising out of depreciation of the US dollar against major currencies and the balance US\$ 13.1 billion was on BoP basis. In 2011-12, the reserves increased by US\$ 6.7 billion from US\$ 304.8 billion at end March 2011 to US\$ 311.5 billion at end September 2011. Out of this total increase, US\$ 5.7 billion was on BoP basis and the balance US\$ 1.0 billion on account of valuation effect.

In the current fiscal, on month-to-month basis the rupee depreciated by 12.4 per cent from ` 44.97 per US dollar in March 2011 to ` 51.34 per US dollar in January 2012. On point-to-point basis, it depreciated by 16.2 per cent from ` 44.65 per US dollar on 31 March 2011 to ` 53.26 per US dollar on 30 December 2011. The rupee reached a peak of ` 43.94 on 27 July 2011 and a low of ` 54.23

per US dollar on 15 December 2011, indicating a depreciation of 19.0 per cent. Similarly, the monthly average exchange rate of the rupee depreciated by 11.5 per cent against the pound sterling, 9.1 per cent against the euro, and 18.7 per cent against the Japanese yen between March 2011 and December 2011.

## **International Trade**

The resilience of India's trade can be seen from the fact that the growth of exports and imports, which was (-)3.5 per cent and (-)5 per cent respectively in 2009-10 as a result of the 2008 global economic crisis, rebounded to 40.5 per cent and 28.2 per cent in 2010-11. India not only reached pre-crisis levels in exports but also surpassed pre-crisis trends in export growth rate, unlike many other developing and even developed countries. India's share in global exports and imports also increased from 0.7 per cent and 0.8 per cent respectively in 2000 to 1.5 per cent and 2.2 per cent in 2010 (1.4 and 2.1 per cent as per the World Trade Organization [WTO]). During the first half of 2011-12, India's exports witnessed a high growth of 40.6 per cent. However, since October 2011 there has been a deceleration as a result of the crisis originating in the periphery and spreading to the core economies in the euro area. In November 2011, export growth was at (-) 0.5 per cent and in December 2011 and January 2012, it was positive but low at 6.7 per cent and 10.1 per cent respectively. Cumulative exports were at US \$242.8 billion, registering a growth of 23.5 per cent during 2011-12 (April-January). During April- December 2011, the export sectors that have done well are petroleum and oil products, gems and jewellery, engineering goods, cotton fabrics, made ups, electronics, readymade garments, and drugs.

Imports in 2011-12 (April-January) at US\$391.5 billion registered a growth of 29.4 per cent. During this period, POL imports at US \$ 118 billion grew by 38.8 per cent. Non-POL imports at US \$ 273.5 billion grew by 25.7 per cent. Gold and silver imports of US \$ 50 billion grew by 46.2 per cent. Non-POL and non-bullion imports, which basically reflect the imports of capital goods needed for industrial activity and imports needed for exports, valued at US \$ 223 billion grew by 21.7 per cent.

Trade deficit (on customs basis) increased by 8.2 per cent to US\$ 118.6 billion in 2010-11 from US\$ 109.6 billion in 2009-10. However, trade

deficit for 2011-12 (April-January) at US \$ 148.7 billion was 40.4 per cent higher than the US \$ 105.9 billion in 2010-11 (April-January).

## **Inflation**

- ↗ Inflation to moderate further in FY 13
- ↗ Renewed focus on supply side measures essential for price stability
- ↗ Inflation expected to moderate at 6.5-7% by March end
- ↗ Gap between WPI and CPI inflation narrows in FY 12
- ↗ Milk, eggs/meat/fish, gram & edible oils major drivers of food inflation
- ↗ Monetary policy measures taken to contain inflation
- ↗ Substantial Monetary policy challenge to rein-in inflation
- ↗ RBI addressed liquidity concerns
- ↗ Monetary market remained orderly in FY 12 2011-12
- ↗ Need to examine linkages between policy rate changes and inflation
- ↗ Threat from asset price bubbles in real estate and stock markets
- ↗ Scope to further sharpen monetary policy and use macro prudential to deal with above said threats
- ↗ Unexpected shocks such as oil prices remain inflationary threats
- ↗ High level of food stocks to help maintain overall price stability

## **Education and Employment**

- ↗ Reform process in education continued IN FY 12
- ↗ Aakash, low cost computing device launched
- ↗ Sarva Shiksha Abhiyan norms revised to correspond with the provisions of the RTE Act
- ↗ National Council for Teacher Education notified as the academic authority for teacher qualifications
- ↗ Number of out-of-school children down from 134.6 lakh in 2005 to 81.5 lakh in 2009
- ↗ Need to scale up the successful centres of innovations, create higher technical institutions

- ↗ Labour Bureau Survey indicates upward trend in employment since July 2009 maintained
- ↗ Employment in organized sector increased by 1.9 % in 2010
- ↗ Share of women in organized-sector employment at 20.4% in 2010 March end
- ↗ MGNREGA: Coverage increases to 5.49 crore households in 2010-11
- ↗ Government sets up committee for developing index for fixing MGNREGA wage rates



## Budget Highlights

- ✓ DTC Bill to be enacted soon.
- ✓ Exemption limit for the general category of individuals to be enhanced from Rs. 1,80,000 to Rs. 2,00,000.
- ✓ Upper limit of 20 per cent tax slab proposed to be raised from Rs. 8 lakh to Rs. 10 lakh.
- ✓ Deduction of up to Rs. 10,000 for interest from savings bank accounts individual tax payers.

- ✓ Deduction of upto Rs. 5,000 for preventive health check up.
- ✓ Senior citizens not having income from business to be exempted from payment of advance tax.
- ✓ Turnover limit for compulsory tax audit of account and presumptive taxation of SMEs to be raised from Rs. 60 lakhs to Rs. 1 crore.
- ✓ Drafting of Centre and State GST in concert with States is under progress and to become operational by August 2012.
- ✓ Service tax rate to be raised from existing 10 % to 12 % .
- ✓ New scheme announced for simplification of refunds.
- ✓ Standard rate of excise duty to be raised from 10 % to 12 %, Merit rate from 5 % to 6 % and Lower merit rate from 1 % to 2 % with few exemptions.
- ✓ Introduction of amendments to the FRBM Act.
- ✓ Subsidies to be fully provided to administer the Food Security Act.
- ✓ To keep central subsidies under 2 % of GDP in 2012-13, to be 1.75 % over next 3 year.
- ✓ Mobile-based Fertilizer Management System to monitor movement of fertilisers and subsidies. Nation-wide roll out during 2012.
- ✓ All three public sector Oil Marketing Companies have launched LPG transparency portals to improve customer service and reduce leakage.
- ✓ To scale up and roll out Aadhaar enabled payments for various government schemes in at least 50 districts within next 6 months.
- ✓ Rs. 30,000 crore to be raised through disinvestment in 2012-13.
- ✓ Efforts to arrive at consensus with the State Governments to allow FDI in retail up to 51%.
- ✓ Provision Advance Pricing Agreement to be introduced in Finance Bill, 2012.
- ✓ Rajiv Gandhi Equity Saving Scheme to allow for income tax deduction of 50 per cent to new retail investors, who invest upto `50,000 directly in equities and whose annual income is below `10 lakh to be introduced. The scheme will have a lock-in period of 3 years.
- ✓ Steps to deepen the reforms in the Capital markets, including simplifying process of IPOs, allowing QFIs to access Indian Bond Market etc.
- ✓ Official amendment to "The Pension Fund Regulatory and Development Authority Bill, 2011", "The Banking Laws (Amendment) Bill, 2011" and "The Insurance Law (Amendment) Bill, 2008" to be moved in this session.

- ✓ Rs. 15,888 crore for capitalization to protect the financial health of Public Sector Banks and Financial Institutions
- ✓ A central "Know Your Customer" depository to be developed in 2012-13 to avoid multiplicity of registration and data upkeep.
- ✓ Tax free bonds of `60,000 crore to be allowed for financing infrastructure projects in 2012-13.
- ✓ Coal India Limited advised to sign fuel supply agreements with power plants, having long-term PPAs with DISCOMs and getting commissioned on or before March 31, 2015.
- ✓ External Commercial Borrowings (ECB) to be allowed to part finance Rupee debt of existing power projects.
- ✓ Target of covering a length of 8,800 kilometre under NHDP next year.
- ✓ ECB to be permitted for working capital requirement of airline industry for a period of one year, subject to a total ceiling of US \$ 1 billion.
- ✓ Various proposals to address the shortage of housing for low income groups in major cities and towns including allowing ECB for low cost housing projects and setting up of a credit guarantee trust fund etc.
- ✓ Government has announced a financial package of `3,884 crore for waiver of loans of handloom weavers and their cooperative societies.
- ✓ Two more mega handloom clusters, one to cover Prakasam and Guntur districts in Andhra Pradesh and another for Godda and neighboring districts in Jharkhand to be set up.
- ✓ Three Weaver's Service Centres one each in Mizoram, Nagaland and Jharkhand to be set up for providing technical support to poor handloom weavers.
- ✓ Rs. 500 crore pilot scheme announced for promotion and application of Geo-textiles in the North Eastern Region.
- ✓ A powerloom mega cluster to be set up in Ichalkaranji in Maharashtra with a budget allocation of Rs. 70 crore.
- ✓ To enable greater access to finance by Small and Medium Enterprises (SME), two SME exchanges launched in Mumbai recently.
- ✓ Policy requiring Ministries and CPSEs to make a minimum of 20 per cent of their annual purchases from MSEs approved. Of this, 4 per cent earmarked for procurement from MSEs owned by SC/ST entrepreneurs.
- ✓ Target for agricultural credit raised by `1,00,000 crore to `5,75,000 crore in 2012-13.

- ✓ Interest subvention scheme for providing short term crop loans to farmers at 7% interest per annum to be continued in 2012-13. Additional subvention of 3 % available for prompt paying farmers.
- ✓ Kisan Credit Card (KCC) Scheme to be modified to make KCC a smart card which could be used at ATMs.
- ✓ National Food Security Bill, 2011 is before Parliamentary Standing Committee.
- ✓ 6,000 schools to be set up at block level as model schools in 12<sup>th</sup> Plan.
- ✓ To ensure better flow of credit to students, a Credit Guarantee Fund proposed to be set up.
- ✓ No new case of polio reported in last one year.
- ✓ Projects approved by National Skill Development Corporation expected to train 6.2 crore persons at the end of 10 years.
- ✓ Rs. 1,000 crore allocated for National Skill Development Fund in 2012-13.
- ✓ To improve the flow of institutional credit for skill development, a separate Credit Guarantee Fund to be set up.
- ✓ Rs. Himayat" scheme introduced in J&K to provide skill training to 1 lakh youth in next 5 years. Entire cost to be borne by Centre.
- ✓ Enrolment of 20 crore persons completed under UID mission. Adequate funds to be allocated to complete enrolment of another 40 crore persons.
- ✓ Proposal to lay a White Paper on Black Money in current session of Parliament.
- ✓ Bill regarding Public Procurement Legislation to be introduced in the Budget Session of the Parliament.
- ✓ To provide low cost funds to stressed infrastructure sectors, rate of withholding tax on interest payment on ECBs proposed to be reduced from 20 per cent to 5 per cent for 3 years for certain sectors.
- ✓ Restriction on Venture Capital Funds to invest only in 9 specified sectors proposed to be removed.
- ✓ Proposal to continue to allow repatriation of dividends from foreign subsidiaries of Indian companies at a lower tax rate of 15 per cent upto 31.3.2013.
- ✓ Investment link deduction of capital expenditure for certain businesses proposed to be provided at the enhanced rate of 150 per cent.

- ✓ New sectors to be added for the purposes of investment linked deduction.
- ✓ Proposal to extend weighted deduction of 200 per cent for R&D expenditure in an inhouse facility for a further period of 5 years beyond March 31, 2012.
- ✓ Proposal to provide weighted deduction of 150 per cent on expenditure incurred for agri-extension services.
- ✓ Proposal to extend the sunset date for setting up power sector undertakings by one year for claiming 100 per cent deduction of profits for 10 years.
- ✓ Exemption from Capital Gains tax on sale of residential property, if sale consideration is used for subscription in equity of a manufacturing SME for purchase of new plant and machinery.
- ✓ Proposal to provide weighted deduction at 150 per cent of expenditure incurred on skill development in manufacturing sector.
- ✓ Reduction in securities transaction tax by 20 per cent on cash delivery transactions.
- ✓ Proposal to extend the levy of Alternate Minimum Tax to all persons, other than companies, claiming profit linked deductions.
- ✓ Proposal to introduce General Anti Avoidance Rule to counter aggressive tax avoidance scheme.
- ✓ Measures proposed to deter the generation and use of unaccounted money.
- ✓ A net revenue loss of `4,500 crore estimated as a result of Direct Tax proposals.
- ✓ Service tax confronts challenges of its share being below its potential, complexity in tax law, and need to bring it closer to Central Excise Law for eventual transition to GST.
- ✓ Overwhelming response to the new concept of taxing services based on negative list.
- ✓ Proposal to tax all services except those in the negative list comprising of 17 heads.
- ✓ Exemption from service tax is proposed for some sectors.
- ✓ Service tax law to be shorter by nearly 40 per cent.
- ✓ Number of alignment made to harmonise Central Excise and Service Tax. A common simplified registration form and a common return comprising of one page are steps in this direction.
- ✓ Revision Application Authority and Settlement Commission being introduced in Service Tax for dispute resolution.

- ✓ Utilization of input tax credit permitted in number of services to reduce cascading of taxes.
- ✓ Place of Supply Rules for determining the location of service to be put in public domain for stakeholders' comments.
- ✓ Study team to examine the possibility of common tax code for Central Excise and Service Tax.
- ✓ Proposals from service tax expected to yield additional revenue of Rs. 18,660 crore.
- ✓ Excise duty on large cars also proposed to be enhanced.
- ✓ No change proposed in the peak rate of customs duty of 10 per cent on nonagricultural goods.
- ✓ To stimulate investment relief proposals for specific sectors - especially those under stress.

## Direct Tax Proposals

### Tax Rates

#### Individuals/ HUFs/ AOPs/BOI/ Artificial Juridical person

- (i) The Tax Slabs for Individuals/ HUFs/ AOPs/BOI, whether incorporated or not, or every artificial juridical person proposed to be revised as follows:

Existing Slab Rates		Proposed Slab Rates	
Income (INR)	Rate of Tax	Income (INR)	Rate of Tax

0-1,80,000	Nil	0-2,00,000	Nil
1,80,001-5,00,000	10%	2,00,001-5,00,000	10%
5,00,001-8,00,000	20%	5,00,001-10,00,000	20%
Above 8,00,000	30%	Above 10,00,000	30%

- (ii) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year:

Existing Slab Rates		Proposed Slab Rates	
Income (INR)	Rate of Tax	Income (INR)	Rate of Tax
0-2,50,000	Nil	0-2,50,000	Nil
2,50,001-5,00,000	10%	2,50,001-5,00,000	10%
5,00,001-8,00,000	20%	5,00,001-10,00,000	20%
Above 8,00,000	30%	Above 10,00,000	30%

- (iii) In case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year:

Existing Slab Rates		Proposed Slab Rates	
Income (INR)	Rate of Tax	Income (INR)	Rate of Tax
0-5,00,000	Nil	0-5,00,000	Nil
5,00,001-8,00,000	20%	5,00,001-10,00,000	20%
Above 8,00,000	30%	Above 10,00,000	30%

No surcharge shall be levied in the cases of persons covered under above.

### **Co-operative Societies:**

In case of Co-operative Societies, the rates of income-tax are as given below. The rates will be continued to be the same as those

specified for Assessment year 2012-13. No surcharge charge will be levied.

Slab Rates	
Income (INR)	Rate of Tax
Up to 10,000	10%
Above 10,000 – 20,000	20%
Above 20,000	30%

**Firms:**

In the case of firms, the rate of income – tax is @ 30%. Surcharge: Nil, Education Cess: 2% and Secondary and higher education cess: 1%. This rate will continue to be the same as that specified for A.Y. 2012-13. No surcharge will be levied.

**Local Authorities:**

The rate of income-tax in case of y local authority is @ 30%. Surcharge: Nil, Education Cess: 2% and Secondary and higher education cess: 1%. This rate will continue to be the same as that specified for the A.Y. 2012 -13.

**Companies:**

Corporate tax rates to remain unchanged. In case of Domestic Companies having total income exceeding INR 1 crore, the surcharge is levied at 5% and in case of other than domestic Company the rate is 2%.

The effective MAT rate is 18.5% plus surcharge as applicable, Education Cess & Higher Education Cess.

Income Tax Payable by Indian Citizen						
income	General			Women		
	Pre-Budget	Post - Budget	Savings	Pre-Budget	Post - Budget	Savings
180,000	0	0	0	0	0	0
190,000	1,030	0	1,030	0	0	0
200,000	2,060	0	2,060	0	0	0
250,000	7,210	5,150	2,060	6,180	5,150	1,030
300,000	12,360	10,300	2,060	11,330	10,300	1,030
500,000	32,960	30,900	2,060	31,930	30,900	1,030
600,000	53,560	51,500	2,060	52,530	51,500	1,030
800,000	94,760	92,700	2,060	93,730	92,700	1,030
900,000	125,660	113,300	12,360	124,630	113,300	11,330
1,000,000	156,560	133,900	22,660	155,530	133,900	21,630
1,200,000	218,360	195,700	22,660	217,330	195,700	21,630
1,500,000	311,060	288,400	22,660	310,030	288,400	21,630
2,000,000	465,560	442,900	22,660	464,530	442,900	21,630
2,500,000	620,060	597,400	22,660	619,030	597,400	21,630
3,000,000	774,560	751,900	22,660	773,530	751,900	21,630
5,000,000	1,392,560	1,369,900	22,660	1,391,530	1,369,900	21,630

income	Senior Citizens			Women		
	60 + Years			80 + Years		
	Pre-Budget	Post - Budget	Savings	Pre-Budget	Post - Budget	Savings
180,000	0	0	0	0	0	0
190,000	0	0	0	0	0	0
200,000	0	0	0	0	0	0
250,000	0	0	0	0	0	0
300,000	5,150	5,150	0	0	0	0
500,000	25,750	25,750	0	0	0	0
600,000	46,350	46,350	0	20,600	20,600	0
800,000	87,550	87,550	0	61,800	61,800	0
900,000	118,450	108,150	10,300	92,700	82,400	10,300
1,000,000	149,350	128,750	20,600	123,600	103,000	20,600
1,200,000	211,150	190,550	20,600	185,400	164,800	20,600
1,500,000	303,850	283,250	20,600	278,100	257,500	20,600
2,000,000	458,350	437,750	20,600	432,600	412,000	20,600
2,500,000	612,650	592,250	20,600	587,100	566,500	20,600
3,000,000	767,350	746,750	20,600	741,600	721,000	20,600
5,000,000	1,385,350	1,364,750	20,600	1,359,600	1,339,000	20,600

## Section wise direct tax proposals

### Definition of capital asset widened.

#### Section 2 (14)

**Existing provision:** "Capital asset" means **property** of any kind held by an assessee, whether or not connected with his business or profession, but does not include certain assets detailed in the provision.

**Proposed provision:** Now a clarification is given that "Property" includes and shall be deemed to have always included any rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever.

**Implications:** Expression property in definition of capital asset made more transparent.

**W.E.F 1<sup>st</sup> April, 1962 (retrospectively)**

### Scope of "Definition of Transfer" widened to include certain assets.

#### Section 2 (47)

**Existing provision:** Transfer includes,

- (i) the sale, exchange or relinquishment of the asset; or
- (ii) the extinguishment of any rights therein ; or
- (iii) the compulsory acquisition thereof under any law ; or
- (iv) in a case where the asset is converted by the owner thereof into, or is treated by him as, stock-in-trade of a business carried on by him, such conversion or treatment; or
- (v) the maturity or redemption of a zero coupon bond; or
- (vi) any transaction involving the allowing of the possession of any immovable property to be taken or retained in part performance of a contract of the nature referred to in section 53A 25 of the Transfer of Property Act, 1882 (4 of 1882) ; or

(vii) any transaction (whether by way of becoming a member of, or acquiring shares in, a co-operative society, company or other association of persons or by way of any agreement or any arrangement or in any other manner whatsoever) which has the effect of transferring, or enabling the enjoyment of, any immovable property.

**Proposed provision:** "transfer" includes and shall be deemed to have always included disposing of or parting with an asset or any interest therein, or creating any interest in any asset in any manner whatsoever, directly or indirectly, absolutely or conditionally, voluntarily or involuntarily by way of an agreement (whether entered into in India or outside India) or otherwise, notwithstanding that such transfer of rights has been characterized as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India.

**Implication:** "Definition of Transfer" made transparent.

**W.E.F 1<sup>st</sup> April, 1962 (retrospectively)**

**Explanation to expression income "through" business connection is further simplified**

**Section 9 (1) (i)**

**Existing provision:** Any income which arises directly or indirectly from any activity or a business connection in India is deemed to be earned in India. Business connections may be in several forms. Formation of a subsidiary company in India to carry on the business of the non-resident parent company would also be a business connection in India. Any profit of the non-resident which can be reasonably attributable to such part of operations carried out in India **through business connections** in India are deemed to be earned in India.

**Proposed provision:** "through" shall mean and include and shall be deemed to have always meant and included "by means of", "in consequence of" or "by reason of".

**Implication:** Meaning of income "through" business connection simplified.

**W.E.F 1<sup>st</sup> April, 1962 (retrospectively)**

## **Clarification of income deemed to accrue or arise in India**

### **Section 9 (1) (i)**

**Existing provision:** Any income which arises directly or indirectly from any activity or a business connection in India is deemed to be earned in India. Business connections may be in several forms. Formation of a subsidiary company in India to carry on the business of the non-resident parent company would also be a business connection in India. Any profit of the non-resident which can be reasonably attributable to such part of operations carried out in India through business connections in India are deemed to be earned in India.

**Proposed provision:** Expression deemed to accrue or arise in India in Section 9(1)(i) will also include an asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

**Implication:** Further explanation provided to clarify the scope of "Income deemed to accrue or arise in India".

**W.E.F 1<sup>st</sup> April, 1962 (retrospectively)**

## **Exemptions on sum received under life insurance policy made stringent.**

### **Section 10 (10D)**

**Existing provision:** Any sum received under a Life Insurance Policy, including the sum allocated by way of bonus on such policy is exempt from tax. However, this rule does not apply to following amounts:

- sum received under Section 80DD(3), or
- any sum received under a Keyman Insurance Policy, or
- any sum received other than as death benefit under an insurance policy which has been issued on or after April 1, 2003 and if the premium paid in any of the years during the term of the policy is more than 20% of the Actual Capital Sum Assured.

**Proposed provision:** It is proposed to reduce the threshold limit of premium payable to 10% of the actual capital sum insured from 20% actual capital sum insured for the policies issued on or after 1<sup>st</sup> April, 2012.

**Implication:** Any sum received under life insurance policy will be exempted only if the premium payable for any of the years doesn't exceed 10% of actual capital sum insured.

**W.E.F 1<sup>st</sup> April, 2012.**

**Certain foreign Companies exempted from tax for payment received in India in Indian currency on account of import of crude oil by India.**

**Section 10 clause (48)**

**Existing provision:** Provision newly proposed

**Proposed Provision:** In the national interest, a mechanism has been devised to make payment to certain foreign companies in India in Indian currency for import of crude oil. The current provisions of the Income-tax Act would render such payment taxable in India because payment is being received by these foreign companies in India in Indian currency. This would not be justified when such payment is based on national interest and particularly when no other activity is being carried out in India by these foreign companies except receipt of payment in Indian currency.

It is proposed to insert a new clause (48) in section 10 of the Income-tax Act to provide for exemption in respect of any income of a foreign company received in India in Indian currency on account of sale of crude oil to any person in India subject to the following conditions:

- (i) The receipt of money is under an agreement or an arrangement which is either entered into by the Central Government or approved by it.
- (ii) The foreign company, and the arrangement or agreement has been notified by the Central Government having regard to the national interest in this behalf.
- (iii) The receipt of the money is the only activity carried out by the foreign company in India.

**Implication:** Tax provision liberalized for crude oil exporting foreign companies.

**W.E.F 1<sup>st</sup> April, 2012 (retrospectively)**

**Bifurcation of VCU's under section 10(23FB) now lifted. TDS and DDT provisions are now applicable to VCF and VCC respectively**

### **Section 10 (23FB)**

**Existing provision:** Further provides that income of a SEBI regulated VCF or VCC, derived from investment in a domestic company i.e. Venture Capital Undertaking (VCU), is exempt from taxation, provided the VCU is engaged in only nine specified businesses. The workings of VCF, VCC or VCU are regulated by SEBI and RBI.

**Proposed provision:** In order to avoid multiplicity of conditions in different regulations for the same entities, the sectoral restriction on business of VCU is required to be removed from Income Tax Act and such VCU is to be allowed to be governed by conditions imposed by SEBI and RBI.

The venture Capital undertaking shall have same meaning as provided in relevant SEBI regulations and there would be no sectoral restriction.

**Existing provision:** The provisions of section 115U currently **allow an opportunity of indefinite deferral of taxation in the hands of investor.**

**Proposed provision:** Income accruing to VCF/ VCC shall be taxable in the hands of investor on accrual basis with no deferral.

**Existing provision:** Further, TDS provisions are not applicable to any payment made by the VCF to its investor and payment by VCC to the investor is exempted from Dividend Distribution Tax (DDT).

**Proposed provision: The exemption from applicability of TDS provisions on income credited or paid by VCF/ VCC to investors shall be withdrawn.**

**Implication:**

- All VCU shall have same meaning as provided in relevant SEBI regulations and there would be no sectoral restriction.
- TDS base widened to included income credited or paid by VCF/ VCC to its investors

**W.E.F 1st April, 2013**

**Benefit of 20% additional Depreciation (in the initial year) now also available to Assessee engaged in the business of Generation or Generation and Distribution of Power.**

**Section: 32 (1)(iia)**

**Existing Provision:** Additional depreciation of 20% (in the initial year) was available on actual cost of new machinery and plant (other than ship and aircraft) only to the assessee engaged in the business of manufacture or production of any article or thing.

**Proposed Provision:** Now it has been proposed that the additional Depreciation @ 20% (in the initial year) will be available on actual cost of new machinery and plant (other than ship and aircraft) to the Assessee engaged in the business of Generation or Generation and Distribution of Power also.

**Implication:** The proposed provision will encourage new Investments by assessee engaged in the business of Generation or Generation and Distribution of Power.

**W.E.F.:** 1<sup>st</sup> April 2013 i.e. A.Y. 2013-14.

**Extension of 5 years for availing benefit of Weighted Deduction @ 200% for Expenses incurred for Scientific Research and Development**

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**Section: 35(2AB)**

**Existing Provisions:** Benefit of Weighted Deduction @ 200% is available to the Companies who have incurred expenditure on In-house Scientific Research up to the A.Y. 2012-13.

**Proposed Provisions:** Now it has been proposed that the above benefit will be available up to the A.Y. 2017-18.

**Implication:** This amendment extends the benefit of Weighted Deduction @ 200% for companies who have incurred expenditure on Inhouse Scientific Research for further 5 Assessment Years.

**W.E.F.:** 1<sup>st</sup> April 2013 i.e. A.Y. 2013-14.

**Investment linked incentive now available to 3 more Specified Businesses over and above the existing 8 Specified Businesses.****Section: 35AD**

**Existing Provision:** Investment-linked tax incentive is provided by way of allowing 100% deduction in respect of the whole of any expenditure of capital nature (other than on land, goodwill and financial instrument) incurred wholly and exclusively, for the purposes of the "specified business" during the previous year in which such expenditure is incurred. Currently, the following "specified businesses" are eligible for availing the investment-linked deduction under section 35AD(8)(c):-

- i. Setting up and operating a cold chain facility.
- ii. Setting up and operating a warehousing facility for storage of agricultural produce.
- iii. Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network.
- iv. Building and operating, anywhere in India, a new hotel of two-star or above category as classified by the Central Government.
- v. Building and operating, anywhere in India, a new hospital with at least one hundred beds for patients.
- vi. Developing and building a housing project under a scheme for slum redevelopment or rehabilitation, framed by the Central Government or a State Government, as the case may be, and

notified by the Board in this behalf in accordance with the guidelines as may be prescribed.

- vii. Developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed; and
- viii. Production of fertilizer in India.

**Proposed Provision:** It is now proposed to include three new businesses as “specified business” under section 35AD, namely:-

- ix. Setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act 1962 (52 of 1962).
- x. Bee-keeping and production of honey and beeswax; and
- xi. Setting up and operating a warehousing facility for storage of sugar.

**Implication:** Beneficial for the assessee engaged in the three businesses newly inserted as above.

**W.E.F.:** This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.

**Increase in Investment linked incentive to 150% from existing 100% for below mentioned 5 Specified Businesses.**

**Section: 35 AD**

**Existing Provision:** Investment-linked tax incentive is provided by way of allowing 100% deduction in respect of the whole of any expenditure of capital nature (other than on land, goodwill and financial instrument) incurred wholly and exclusively, for the purposes of the “specified business” during the previous year in which such expenditure is incurred.

Currently, the following "specified businesses" are eligible for availing the investment-linked deduction under section 35AD(8)(c):-

- i. Setting up and operating a cold chain facility.
- ii. Setting up and operating a warehousing facility for storage of agricultural produce.
- iii. Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network.
- iv. Building and operating, anywhere in India, a new hotel of two-star or above category as classified by the Central Government.
- v. Building and operating, anywhere in India, a new hospital with at least one hundred beds for patients.
- vi. Developing and building a housing project under a scheme for slum redevelopment or rehabilitation, framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed.
- vii. Developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed; and
- viii. Production of fertilizer in India.

**Proposed Provision:** It is now proposed that the following Specified Businesses commencing operations on or after 1<sup>st</sup> April 2012 shall be allowed a deduction of 150% of the Capital Expenditure U/s. 35AD:

- i. Setting up and operating a cold chain facility.
- ii. Setting up and operating a warehousing facility for storage of agricultural produce.
- iii. Building and operating, anywhere in India, a new hospital with at least one hundred beds for patients.
- iv. Developing and building a housing project under a scheme for slum redevelopment or rehabilitation, framed by the Central Government or a State Government, as the case may be, and

notified by the Board in this behalf in accordance with the guidelines as may be prescribed.

- v. Production of fertilizer in India.

**Implication:** Previously the above mentioned businesses were allowed Investment-linked tax incentive @ 100% deduction in respect of the whole of any expenditure of capital nature (other than on land, goodwill and financial instrument) incurred wholly and exclusively, for the purposes of the "specified business", while the ones commencing operations on or after 1<sup>st</sup> April 2012 will now be eligible for 150% deduction.

**Benefit of Investment-linked tax incentive @ 100% deduction extended to those Hotel Owners as well who have transferred the operation of their Hotels to another person through franchisee business.**

**Section: 35 AD**

**Existing Provision:** Currently, the investment-linked deduction under section 35AD is allowed to an assessee engaged in the business of building and operating a hotel only if the owner of a hotel himself operates it.

**Proposed Provision:** A new Sub-Section (1A) is proposed to be inserted in section 35AD to provide that where the assessee builds a hotel of two-star or above category as classified by the Central Government and subsequently while continuing to own the hotel, transfers the operation thereof to another person, the assessee shall be deemed to be carrying on the specified business of building and operating hotel.

**Implication:** In service industries like hotels, a franchisee business system exists where the hotel owner may get the hotel operated through an outsourcing arrangement. Prior to the amendment Investment-linked tax incentive @ 100% deduction was not allowed to this type of Assesses. Therefore, it is proposed to provide a suitable clarification so that a hotel owner continues to be eligible for the investment linked deduction under section 35AD if he, while continuing to own the hotel, transfers the operation of such hotel to another person.

**W.E.F.:** This amendment will take effect retrospectively from 1st April 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent assessment years.

**Protection Shield provided to the Assessee in default on account of Non Deduction of Tax at Source. (If TDS deposited by deductee to govt a/c, then also deductor is safe).**

**Section: 40(ia)**

**Existing Provision:** Disallowance under section 40(a)(ia) of certain business expenditure like interest, commission, brokerage, professional fee, etc. due to non-deduction of tax. It has been provided that in case the tax is deducted in subsequent previous year, the expenditure shall be allowed in that subsequent previous year of deduction.

**Proposed Provision:** In order to rationalize the provisions of disallowance on account of non-deduction of tax from the payments made to a resident payee, it is proposed to amend section 40(a)(ia) to provide that where an assessee makes payment of the nature specified in the said section to a resident payee without deduction of tax and is not deemed to be an assessee in default under section 201(1) on account of payment of taxes by the payee, then, for the purpose of allowing deduction of such sum, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the resident payee. These beneficial provisions are proposed to be applicable only in the case of resident payee.

**Implication:** On account of the proposed amendment, assessee will not be treated as Assessee in Default U/s. 201(1) provided the deductee has deposited the tax amount before the date of filing of Tax Return of deductor.

**Weighted deduction of 150% available for expenditure incurred on agricultural extension project.**

**Section: 35CCC**

**Existing Provision:** Provision newly proposed.

**Proposed Provisions:** In order to provide an Incentive to the business entities to provide better and effective agriculture extensive services, following has been pronounced:

1. Where an assessee incurs any expenditure on agricultural extension project notified by the Board in this behalf in accordance with the guidelines as may be prescribed, then, there shall be allowed a deduction of 150% of such expenditure.
2. Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provisions of this Act for the same or any other assessment.

**Implication:** On account of this provision, assessee engaged in providing agriculture extensive services will be able to avail weighted deduction of 150% and thus assessee will be motivated to provide better services and so overall agriculture sector will be benefited.

**W.E.F.:** This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.

### **Weighted deduction of 150% available for expenditure incurred for Skill Development.**

**Section: 35CCD**

**Existing Provision:** Provision newly proposed.

**Proposed Provisions:** In order to provide an Incentive to the companies to invest on skill development projects, following has been pronounced:

1. Where a company incurs any expenditure (not being expenditure in the nature of cost of any land or building) on any skill development project notified by the Board in this behalf in accordance with the guidelines as may be prescribed, then, there shall be allowed a deduction of 150% of such expenditure.
2. Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such

expenditure under any other provisions of this Act for the same or any other assessment.

**Implication:** The above section encourages the private sector to set up their own institutions, as the government will provide weighted standard deduction of 150% of the expenditure (other than land or building) incurred on Public Private Partnership (PPP) project for skill development in the ITIs in manufacturing sector in separate facilities.

**W.E.F.:** The proposed amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.

**Increase in Limit of Turnover or Gross Receipts (For Businesses from Rs. 60 lakhs to Rs. 1.00 Cr. and for Professionals from Rs. 15 lakhs to Rs. 25 lakhs) for getting the accounts audited.**

#### **Section: 44AB**

**Existing Provision:** Under the existing provisions of section 44AB, every person carrying on business is required to get his accounts audited if the total sales, turnover or gross receipts in the previous year exceed 60 Lakh rupees. Similarly, a person carrying on a profession is required to get his accounts audited if the total sales, turnover or gross receipts in the previous year exceed 15 Lakh rupees.

**Proposed Provision:** It is proposed to increase the threshold limit of total sales, turnover or gross receipts, specified under section 44AB for getting accounts audited, from 60 Lakh rupees to 1 Crore rupees in the case of persons carrying on business and from 15 Lakh rupees to 25 Lakh rupees in the case of persons carrying on profession.

**Implication:** The proposed amendment reduces the compliance burden on small businesses and professionals.

**W.E.F.:** 1<sup>st</sup> April 2013 i.e. A.Y. 2013-14.

## **Increase in Limit of Turnover or Gross Receipts for availing the benefit of Presumptive Taxation.**

### **Section: 44AD**

**Existing Provision:** As of now all the businesses whose turnover or gross receipts in the previous year does not exceed 60 Lakh rupees could declare their income to be 8% of Turnover/Gross Receipts.

**Proposed Provision:** It is proposed that for the purposes of presumptive taxation under section 44AD, the threshold limit of total turnover or gross receipts would be increased from 60 Lakh rupees to 1 Crore rupees. Further proposed that following 3 areas will now be excluded from the purview of Section 44AD.

1. A person carrying on profession as referred to in Section 44AA (i.e. the Assessee for whom the books of accounts have been prescribed)
2. A person earning income in nature of Commission or Brokerage.
3. A person carrying on any agency business.

**Implication:** The proposed amendment reduces the compliance burden on small businesses and professionals as well as removes the above mentioned 3 businesses from the purview of Section 44AD, thereby these assesses will not be liable to declare their Income upto 8% of Gross Receipts.

**W.E.F.:** 1<sup>st</sup> April 2013 i.e. A.Y. 2013-14.

## **More precise Assessment pronounced for disallowance U/s. 40A by taking reference of transfer pricing provisions u/s 92 F.**

### **Section: 40A**

**Existing Provision:** As of now any expenditure being excessive or unreasonable having regard to the fair market value shall be disallowed under the provisions of S. 40A(2).

**Proposed Provision:** No disallowance on account of any expenditure being excessive or unreasonable having regard to the fair market value shall be disallowed in respect of specified domestic transaction referred to in S. 92BA, if such transaction is at arm's length price as defined in clause (ii) of Section 92F.

**Implication:** Owing to proposed amendment more clarity will be brought in the act of disallowance of expenditures made considering them as excessive or unreasonable.

**W.E.F.:** 1<sup>st</sup> April 2013 i.e. A.Y. 2013-14.

### **More clarity on transfer of shares in the scheme of Amalgamation**

#### **Section 47(vii)**

##### **Existing provision:**

Under the provisions of section 47(vii) any transfer by a shareholder, in a scheme of amalgamation of a capital asset being a share or shares held by him in the amalgamating company is not regarded as a transfer if,

- (a) any transfer is made in consideration of the allotment to him of any share or shares in the amalgamated company,
- (b) the amalgamated company is an Indian company.

##### **Proposed Provision:**

In a case where a subsidiary company amalgamates into the holding company, it is not possible to satisfy one of the conditions at (a) above, i.e. that the amalgamated company (the holding company) issues shares to the shareholders of the amalgamating company (subsidiary company), since the holding company is itself the shareholder of the subsidiary company and cannot issue shares to itself. Therefore, it is proposed to amend the provisions of section 47(vii) so as to exclude the requirement of issue of shares to the shareholder where such shareholder itself is the amalgamated company. However, the amalgamated company will continue to be required to issue shares to the other shareholders of the amalgamating company.

**W.E.F.:** 1<sup>st</sup> April, 2013

##### **Implication:**

Owing to the proposed amendment, more clarity as regards to transfer of shares in the scheme of Amalgamation has been pronounced. Ambiguity as regards to transfer of shares from holding company to subsidiary company has also been solved by substituting the words 'Amalgamated Company' with 'Amalgamated Company except where the shareholder itself is the Amalgamated Company'.

## **Fair market value to be full value of consideration in certain cases**

### **Section 50D**

#### **Existing provision:**

Provision newly pronounced.

#### **Proposed Provision:**

Where the consideration received as a result of the transfer of a capital asset by an assessee is not ascertainable then for the purpose of computing capital gains, the fair market value of the said asset on the date of transfer shall be deemed to be the full value of the consideration received as a result of such transfer.

**W.E.F** 1<sup>st</sup> April, 2013

#### **Implication:**

On account of new provision clarity has been brought of applying Fair Market Value (FMV) in cases where consideration received is not ascertainable, on the same place it may result into the additional Tax burden on the Assessee if FMV is on higher side.

## **HUF will also enjoy exemption of capital gain on transfer of Land used for agriculture purpose**

### **Section 54B(1)**

#### **Existing provision:**

Capital gains on transfer of land which has been used for agricultural purposes in the two years preceding the year in which it has been sold by assessee or his parent is exempt if the whole of capital gains has been reinvested in the purchase of agricultural land in the next two years.

**Proposed Provision:**

It is proposed to substitute the word in above section "individual or his parents" by "the assessee being an individual or his parent, or a Hindu Undivided Family" (HUF).

**Implication:**

The benefit of Section 54B is extended to HUF as well in addition to individual or his parent.

**W.E.F.:** 1<sup>st</sup> day of April, 2013.

**Exemption from Capital Gain on residential property, where net consideration invested in Equity share of eligible Company.****Section 54GB****Existing provision**

Provision newly pronounced.

**Proposed Provision:**

- Where the capital gain arises from the transfer of a long-term capital asset being a residential property (a house or a plot of land) owned by the Assessee (Only individual or a HUF) and this net consideration utilizes for subscription in the equity shares of an eligible company before the due date of furnishing of return of income under sub-section (1) of section 139 and the Eligible Company have utilized this amount for purchase of new asset within one year from the date of subscription in equity shares by the assessee. If the above condition are satisfy then it shall Exempt from taxation.
- If the equity shares of the company or the new asset acquired by the company are sold or transferred within a period of five years from the date of their acquisition, the amount of capital gain arising from the transfer of the residential property shall be deemed to be the income of the assessee chargeable under the head "capital gains" of the previous year in which such equity shares or such new asset are sold or transferred.
- For the purpose of this section, Company means
  - It is a company incorporated in India during the period from the 1st day of April of the previous year relevant to the assessment year in which the capital gain arises to the due date of furnishing of return of income under sub-section (1) of section 139 by the assessee.

- It is engaged in the business of manufacture of an article or a thing.
- It is a company in which the assessee has equal to or more than 50% of share capital.
- It is a company which qualifies to be a small or medium enterprise under the Micro, Small and Medium Enterprises Act, 2006.
- For the purpose of this section, New Assets means new plant and machinery but does not include:
  - It was used either within or outside India by any other person before the installation.
  - It installed in any office premises or any residential accommodation including accommodation in the nature of a guest-house, any office appliances including computers or computer software or any vehicle.
  - The actual cost of machinery or plant, the depreciation for which has been already allowed as a deduction in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.
- The above Provision is to be understood in accordance with other further conditions as specified in Pronounced Section 54GB

### **Implication:**

On account of this pronouncement of new section, one more avenue is granted to Assessee to invest the Consideration received from the sale of residential property into the business by utilizing the said amount in procurement of plant & machinery subject to relevant conditions prescribed in the said Section.

**W.E.F.:** 1<sup>st</sup> day of April, 2013.

### **Additional right conferred to AO to call for valuation report as on 01.04.1981**

#### **Section 55A**

#### **Existing provision:**

Under the provisions of section 55A, where in the opinion of the Assessing Officer, value of asset as claimed by the assessee is less than its market value, he may refer the valuation of a capital asset to a Valuation Officer. Under section 55 in a case where the capital asset became the property of

the assessee before 1st April, 1981, the assessee has the option of substituting the fair market value of the asset as on 1st April, 1981 as the cost of the asset.

**Proposed Provision:**

It is proposed to amend the provisions of section 55A of the Income-tax Act to enable the Assessing Officer to make a reference to the Valuation Officer where in his opinion the value declared by the assessee is at variance from the fair market value. Therefore, in case where the Assessing Officer is of the opinion that the value taken by the assessee as on 1.4.1981 is higher than the fair market value of the asset as on that date, the Assessing Officer would be enabled to make a reference to the Valuation Officer for determining the fair market value of the property.

**Implication:**

Owing to this amendment, Assessing Officer is conferred the right to call for Valuation Report in order to draw out the value of asset as on the date of 01.04.1981, thus there is no room for the Assessee to take the advantage of this loophole till date.

**W.E.F :-** 1st day of July, 2012

**Exemption of any sum or property received without adequate consideration by an HUF from its members**

**Section 56(2) (viiia)**

**Existing Provision:** Any receipts received by an Individual from relatives are not taxable under this section. The definition of relative as given in this sub-clause is only in relation to an individual and not in relation to a HUF.

**Proposed Provision:** To amend the provision of section 56 so as to provide that any sum or property received without consideration or inadequate consideration by an HUF from its members would be excluded from taxation.

**W.E.F:** Retrospectively from 1st October 2009.

**Implication:**

HUF is benefited as any sum or property received without consideration or inadequate consideration by an HUF from its members is not taxable.

**The Share premium in excess of the fair market value to be treated as income under the head “Income from other sources” for the company in which the public are not substantially interested.**

### **Section 56 (2) (viib)**

**Existing Provision:** Newly Inserted

**Proposed Provision:** The new clause will apply where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares. In such a case if the consideration received for issue of shares exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be chargeable to income tax under the head “Income from other sources.”

Further, it is also proposed to provide the company an opportunity to substantiate its claim regarding the fair market value. Accordingly, it is proposed that the fair market value of the shares shall be the higher of the value—

- (i) as may be determined in accordance with the method as may be prescribed; or
- (ii) as may be substantiated by the company to the satisfaction of the Assessing Officer, based on the value of its assets, including intangible assets, being goodwill, know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature.

However, this provision shall not apply where the consideration for issue of shares is received by a venture capital undertaking from a venture capital company or a venture capital fund.

**W.E.F.:** 1st April, 2013, i.e. Assessment year 2013-14

**Implication:** The amendment will help in stopping the malpractices of raising capital at unreasonable rates and making an attempt to convert black money into white money.

**Unexplained cash credits in the books of a company, not being a company in which the public are substantially interested to be chargeable to tax.**

**Proviso to Section 68**

**Existing Provision:** Section 68 of the Act provides that if any sum is found credited in the books of an assessee and such assessee either (i) does not offer any explanation about nature and source of money; or (ii) the explanation offered by the assessee is found to be not satisfactory by the Assessing Officer, then, such amount can be taxed as income of the assessee.

**Proposed Provision:** A company, not being a company in which the public are substantially interested and the sum so credited consists of share application money, share capital, share premium or such amount by whatever name called, any explanation offered by such assessee company shall be deemed to be not satisfactory, unless-

- (a) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and
- (b) such explanation in the opinion of the assessing officer aforesaid has been found to be satisfactory

Provided further that nothing contained in the first proviso shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in clause (23FB) of Section 10.

**W.E.F.:** 1st April, 2013, i.e. Assessment year 2013-14

**Implication:**

The amendment is beneficial in the same manner as the above amendment to curb conversion of black money to white money.

## **Anti money laundering steps for taxation of unaccounted money @ 30%.**

### **Section 68, 69, 69A, 69B, 69C 69D**

**Existing Provision:** Under the existing provisions of the Income-tax Act, certain unexplained amounts are deemed as income under section 68, section 69, section 69A, section 69B, section 69C and section 69D of the Act and are subject to tax as per the tax rate applicable to the assessee. In case of individuals, HUF, etc., no tax is levied up to the basic exemption limit. Therefore, in these cases, no tax can be levied on these deemed income if the amount of such deemed income is less than the amount of basic exemption limit and even if it is higher, it is levied at the lower slab rate.

**Proposed Provision:** In order to curb the practice of laundering of unaccounted money by taking advantage of basic exemption limit, it is proposed to tax the unexplained credits, money, investment, expenditure, etc., which has been deemed as income under section 68, section 69, section 69A, section 69B, section 69C or section 69D, at the rate of 30% (plus surcharge and cess as applicable). It is also proposed to provide that no deduction in respect of any expenditure or allowance shall be allowed to the assessee under any provision of the Act in computing deemed income under the said sections.

**W.E.F.:** 1st April, 2013, i.e. Assessment year 2013-14

### **Implication:**

The amendment will help in making unaccounted money to be taxed at a flat rate of 30%. This will clutch the people who use the exemption limits to evade taxes and convert their black money into white money.

## **Eligible deduction for payment of life insurance premia u/s 80C reduced by 50%.**

### **Section 80C (3)**

**Existing provision:** The existing provisions contained in section 80C(3) provide that the deduction for life insurance premium shall be allowed for only so much of any premium or other payment made on an insurance policy as is not in excess of 20% of the actual capital sum assured.

**Proposed Provision:** It is proposed to amend the provisions to provide that the deduction for life insurance premium as regards insurance policies issued on or after 1st April, 2012 shall be allowed for only so much of the premium payable as does not exceed 10% of the actual capital sum assured.

It is further proposed to insert the definition of “actual capital sum assured” so as to provide that the actual capital sum assured in relation to a life insurance policy shall be the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account— (i) the value of any premiums agreed to be returned, or (ii) any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

**W.E.F.:** 1st day of April, 2013 i.e. Assessment year 2013-14

**Implication:** Scope of deduction for life insurance premia reduced. Tax evasion by payment of one time life insurance premia in a particular year will be reduced to certain extent.

**Deduction for expenditure on preventive health check-up upto Rs. 5000/- & Eligible age of a senior citizen assessee reduced from 65 years to 60 years.**

## **Section 80D**

**Existing Provision:** Under the existing provisions contained in section 80D of the Income-tax Act, a deduction is allowed in respect of premium paid towards a health insurance policy for insurance of self, spouse and dependent children or any contribution made to the Central Government

Health Scheme, up to a maximum of Rs.15,000 in aggregate. A further deduction of Rs.15,000 is also allowed for buying a health insurance policy in respect of parents.

For the purpose of this sub section "senior citizen" means an individual resident in India who is of the age sixty five years or more at any time during the previous year.

**Proposed Provision:** It is proposed to amend this section to also include any payment made by an assessee on account of preventive health check-up of self, spouse, dependent children or parents(s) during the previous year as eligible for deduction within the overall limits prescribed in the section. However, the proposed deduction on account of expenditure on preventive health check-up (for self, spouse, dependent children and parents) shall not exceed in the aggregate Rs.5,000.

It is further proposed to provide that for the purpose of the deduction under section 80D, payment can be made –

- (i) by any mode, including cash, in respect of any sum paid on account of preventive health check-up and
- (ii) by any mode other than cash, in all other cases.

For the purpose of this sub section the meaning of the word "senior citizen" has been amended to the age sixty years or more at any time during the previous year.

**W.E.F.:** 1st day of April, 2013 i.e. Assessment year 2013-14

**Implication:**

Assessee can claim a deduction of Rs.5000/- in respect of expenditure on preventive health check-up.

Lowering the age limit of senior citizen will be beneficial to more assessee.

**Eligible age of a senior citizen assessee/ dependent in respect of claiming deduction for expenditure of medical treatment reduced from 65 years to 60 years.**

### **Section 80DDB**

**Existing provision:** Expenditure made for the medical treatment of specified diseases of the assessee/ dependent is allowed upto maximum of Rs.60,000/-.

For the purpose of this sub section "senior citizen" means an individual resident in India who is of the age sixty five years or more at any time during the previous year.

**Proposed Provision:** For the purpose of this sub section the meaning of the word "senior citizen" has been amended to the age sixty years or more at any time during the previous year.

**W.E.F.:** 1st day of April, 2013 i.e. Assessment year 2013-14

### **Implication:**

Lowering the age limit of senior citizen will be beneficial to more assessee.

**No deduction if donation paid in cash for more than Rs. 10000.**

### **Section 80G**

**Existing provision:** Donation to specified funds and other institutions as specified can be made by any mode including cash without any limit for claiming deduction

**Proposed Provision:** A new sub section 5D to section 80G has been inserted as per which no deduction shall be allowed in respect of donation of any sum exceeding ten thousand rupees unless such sum is paid by any mode other than cash.

**W.E.F.:** 1st day of April, 2013 i.e. Assessment year 2013-14

**Implication:**

Assessee will have to be more careful in making payment for donation as cash payments exceeding Rs.10,000/- will now be disallowed.

**No deduction if donation (for scientific research or rural development) paid in cash for more than Rs. 10000.****Section 80GGA**

**Existing provision:** Donation to specified scientific research or to a university, college or other institution to be used for scientific research can be made by any mode including cash without any limit for claiming deduction.

**Proposed provision:** A new sub section 2A to section 80GGA has been inserted as per which no deduction shall be allowed in respect of donation of any sum exceeding ten thousand rupees unless such sum is paid by any mode other than cash.

**W.E.F.:** 1st day of April, 2013 i.e. Assessment year 2013-14

**Implication:**

Assessee will have to be more careful in making payment for donation as cash payments exceeding Rs.10,000/- will now be disallowed.

**Extension of sunset date for tax holiday for power sector by another one year****Section 80-IA (4)(iv)**

**Existing provision:** Under the existing provisions of section 80-IA(4)(iv) of the Income-tax Act, a deduction from profits and gains is allowed to an undertaking which,—

(a) is set up for the generation and distribution of power if it begins to generate power at any time during the period beginning on 1st April, 1993 and ending on 31st March, 2012;

(b) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on 1st April, 1999 and ending on 31st March, 2012;

(c) undertakes substantial renovation and modernization of existing network of transmission or distribution lines at any time during the period beginning on 1st April, 2004 and ending on 31st March, 2012.

**Existing Provision:** It is proposed to amend the above provision to extend the terminal date for a further period of one year, i.e., up to 31st March, 2013.

**W.E.F.:** 1st day of April, 2013 i.e. Assessment year 2013-14

**Implication:**

The eligible assessee can avail the benefit for one more year in the mentioned section.

**Deduction in respect of interest on deposits in savings accounts up to Rs. 10000**

**Section 80TTA**

**Existing Provision:** Newly Inserted

**Proposed Provision:**

Under the proposed new section 80TTA of the Income-tax Act, a deduction up to an extent of ten thousand rupees in aggregate shall be allowed to an assessee, being an individual or a Hindu undivided family, in respect of any income by way of interest on deposits (not being time deposits) in a savings account with—

(i) a banking company to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank or banking institution referred to in section 51 of that Act);

- (ii) a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or
- (iii) a post office, as defined in clause (k) of section 2 of the Indian Post Office Act, 1898 (6 of 1898).

However, where the aforesaid income is derived from any deposit in a savings account held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed in respect of such income in computing the total income of any partner of the firm or any member of the association or body.

**W.E.F.:** 1st day of April, 2013 i.e. Assessment year 2013-14

**Implication:**

Additional deduction of ten thousand rupees for individual or a Hindu undivided family is a beneficial amendment.

**Double Taxation Relief:**

**Section 92C:**

**Existing Provision:**

Sub section (2) of the said section provides that if the appropriate method results in more than one price then the arithmetic mean of these prices would be the ALP. The proviso to sub section (2) of section 92C which was amended Finance Act, 2011 provides that the Central Government may notify a percentage and if variation between the ALP so determined and the transaction price is within the notified percentage (of transaction price), no adjustment shall be made to the transaction price.

**Proposed Provision:**

It is proposed to amend Section 92C (2) of the Act, so as to provide an upper ceiling of 3% in respect of power of Central Government to notify the tolerance range for determination of arms length price.

**W.E.F: 1<sup>st</sup> April 2013 i.e. A.Y: 2013-2014**

## **Section 92CA:**

### **Existing Provision:**

Section 92CA of the Act provides that the Assessing Officer, if he considers it necessary or expedient to do so, may with the previous approval of Commissioner of Income tax, refer the matter of determination of Arm's Length Price in respect of an international transaction to the Transfer Pricing Officer (TPO).

### **Proposed Provision:**

It is proposed to amend the section 92CA of the Act retrospectively to empower Transfer Pricing Officer (TPO) to determine Arm's Length Price of an international transaction noticed by him in the course of proceedings before him, even if the said transaction was not referred to him by the Assessing Officer, provided that such international transaction was not reported by the taxpayer as per the requirement cast upon him under section 92E of the Act. It is also proposed to provide an explanation to effect that due to retrospectivity of the amendment no reopening of any proceeding would be undertaken only on account of such an amendment.

**W.E.F: 1<sup>st</sup> April 2013 i.e. A.Y: 2013-2014**

### **Newly proposed provision:**

Section 92CA (2C): Nothing contained in sub-section (2B) shall empower the Assessing Officer either to assess or reassess under section 147 or pass an order enhancing the assessment or reducing a refund already made or otherwise increasing the liability of the assessee under section 154.

**W.E.F: 1<sup>st</sup> July 2012 i.e. A.Y: 2012-2013**

## **SHORT TERM CAPITAL GAIN**

### **SECTION: 111A**

#### **Existing Provision:**

In case of equity shares in a company or units of any equity oriented fund on which Securities Transaction Tax is paid, the rate of Short term capital gain tax is 15%. This rate was increased from 10% to 15% vide Finance Act 2008 with effect from 01.04.2009. The proviso to this section while providing relief, the rate in short term capital gain is still referred as 10%

#### **Provision Proposed:**

It is proposed to amend the provision of proviso to section 111A of the Income tax Act. to 15%.

⊗ Implication:

This amendment increases the tax burden.

W.E.F: 1<sup>st</sup> April, 2009 i.e. A.Y 2009-10.

## **TAX INCENTIVE FOR FUNDING OF CERTAIN Infrastructure Sectors**

### **SECTION: 115A**

#### **Existing Provision:**

Section 115 of the Income Tax Act provides that any interest income received by any non-resident from the Government or any Indian concern shall be taxable @ 20% on the gross amount of such interest income. The interest income received by a non-resident from a notified Infrastructure Debt Fund (IDF) is taxable at a reduced rate of 5% on gross amount of such interest income.

#### **Provision Proposed:**

It is proposed to amend section 115A of the Income Tax to provide that any interest paid by a specified company to a non-resident in respect of borrowing made in foreign currency from sources outside India between 1<sup>st</sup> July, 2012 & 1<sup>st</sup> July, 2015, including rate of interest payable, approved by Central Government, shall be taxable @ 5% (applicable surcharge & cess).

W.E.F: 1<sup>st</sup> April 2013 i.e. A.Y: 2013-2014

## **Taxation of a Non-Resident entertainer, sports person, etc.**

### **SECTION: 115BBA**

#### **Existing Provision:**

Section 115BBA of the Income Tax Act provides a concessionary tax regime in the case of income of sports persons who are non-citizen and non-resident. The provision covers income received by way of participation in any game or sport, advertising or contribution of article in any newspaper etc. The income of such sportsmen is taxed at the rate of 10% of the gross receipts. The same regime is also available to a non-resident sports association or institution for guarantee money payable to such

Institution in relation to any game or sport played in India.

#### **Proposed Provision:**

It is proposed to amend section 115BBA to provide that income arising to a non-citizen, non-resident entertainer (such as theatre, radio or television artists and musicians) from performance in India shall be taxable at the rate of 20% of gross receipts.

It is also proposed to increase the taxation rate, in case of non-citizen, non-resident sportsmen and non-resident sports association, from 10% to 20% of the gross receipts.

W.E.F: 1<sup>st</sup> July 2012 i.e. A.Y: 2012-2013

### **Tax on dividends received from foreign companies.**

#### **Section 115BBB:**

##### **Existing Provision:**

Section 115BBB of Income Tax Act (the Act) provides for taxation of gross dividends received by an Indian company from a specified foreign company (in which it has shareholding of 26% or more) at the rate of 15% if such dividend is included in the total income for the Financial Year 2011-12 i.e. Assessment Year 2012-13.

##### **Proposed Provision:**

It is proposed to amend section 115BBB to extend the applicability of this section in respect of income by way of certain foreign dividends received in Financial Year 2012-13 also, subject to the same conditions.

**W.E.F: 1<sup>st</sup> April 2013 i.e. A.Y: 2013-2014**

### **Minimum Alternate Tax (MAT)**

#### **Section 115JB:**

##### **Existing Provision:**

**I.** As per section 115JB, every company is required to prepare its accounts as per Schedule VI of the Companies Act, 1956. However, as per the provisions of the Companies Act, 1956, certain companies, e.g. insurance, banking or Electricity Company, are allowed to prepare their profit and loss account in accordance with the provisions specified in their regulatory Acts.

**II.** In certain cases, the amount standing in the revaluation reserve is taken directly to general reserve on disposal of a revalued asset. Thus, the gains attributable to revaluation of the asset are not subject to MAT liability.

##### **Proposed Provision:**

**I.** It is proposed to amend section 115JB to provide that the profit and loss account of above mentioned companies prepared in accordance with the provisions of their regulatory Acts shall be taken as a basis for computing the book profit under section 115JB.

**II.** It is proposed to provide that the book profit for the purpose of section 115JB shall be increased by the amount standing in the revaluation reserve relating to the revalued asset which has been retired or disposed, if the same is not credited to the profit and loss account.

**III.** It is also proposed to omit the reference of Part III of the Schedule VI of the Companies Act, 1956 from section 115JB in view of omission of Part III in the revised Schedule VI under the Companies Act, 1956.

**W.E.F.: 1<sup>st</sup> April 2013 i.e. A.Y: 2013-2014**

**Section: 115U(1)**

**Existing Provision:** notwithstanding anything contained in any other provision of the act, any income received by a person out of investments made in a venture capital company or venture capital fund shall be chargeable to income tax in the same manner as if it were the income received by such a person had made investment directly in the venture capital undertaking.

**Proposed Provision:** Now it has been proposed that the notwithstanding anything contained in any other provision of the act, any income accruing or arising or arising to or received by a person out of investments made in a venture capital company or venture capital fund shall be chargeable to income tax in the same manner as if it were the income accruing or arising or arising to or received by such a person had made investment directly in the venture capital undertaking.

**Implication:** The proposed provision will encourage assesses to business with venture capital company as proposed scheme give benefits to assesses on income will be arise or accrue.

**W.E.F.:** 1<sup>st</sup> April 2013 i.e. A.Y. 2013-14.

**Section: 115U(2)**

**Existing Provision:** The Person is responsible for making payment of income on behalf of a venture company or a venture capital fund and a venture company or a venture capital fund shall furnish, within such a time as may be prescribed to the person receiving such income and the prescribed income tax authority, a statement in the prescribed form and verified in the prescribed manner, giving details of the nature of the income paid during the previous year and such other relevant details as may be prescribed.

**Proposed Provision:** Now it has been proposed that The Person is responsible for Creating or making payment of income on behalf of a venture company or a venture capital fund and a venture company or a venture capital fund shall furnish, within such a time as may be prescribed to the person to the person liable to tax in respect of such income and the prescribed income tax authority, a statement in the prescribed form and verified in the prescribed manner, giving details of the nature of the

income paid or credited during the previous year and such other relevant details as may be prescribed.

**Implication:**

**W.E.F.:** 1<sup>st</sup> April 2013 i.e. A.Y. 2013-14.

**Section: 115U(3)**

**Existing Provision:** The income paid by the venture capital company and the venture capital fund shall be deemed to be of the same nature and in the same proportion in the hands of the person receiving such income as it had been received by, or had accrued to the venture capital company or the venture capital fund, as the case may be, during the previous year.

**Proposed Provision:** Now it has been proposed that The income paid or credited by the venture capital company and the venture capital fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (1) as it had been received by, or had accrued or arisen to the venture capital company or the venture capital fund, as the case may be, during the previous year.

**Implication:**

**W.E.F.:** 1<sup>st</sup> April 2013 i.e. A.Y. 2013-14.

**Section: 115VG**

Qualifying ship having net tonnage	Amount of Daily Tonnage of income	
	Existing	Newly Proposed
(1)	(2)	
Upto 1,000	Rs.46 for each 100 tons	Rs.70 for each 100 tons
1,001 – 10,000	Rs.460 plus Rs.35 for each 100 tons exceeding	Rs.700 plus Rs.53 for each 100 tons exceeding

	1,000 tons	1,000 tons
10,001 – 25,000	Rs.3610 plus Rs.28 for each 100 tons exceeding 25,000 tons	Rs.5470 plus Rs.42 for each 100 tons exceeding 25,000 tons
Exceeding 25,000	Rs.7810 plus Rs.19 for each 100 tons exceeding 25,000 tons	Rs.11770 plus Rs.29 for each 100 tons exceeding 25,000 tons

**Implication:**

**W.E.F.:** 1<sup>st</sup> April 2013 i.e. A.Y. 2013-14.

**Compulsory filling of Income Tax Return in relation to assets located outside India**

SECTION 139:

**Existing Provision:**

Every person is required to furnish a return of income if his income during the previous year relevant to the assessment year exceeds the maximum amount which is not chargeable to Tax. The return of income has to be furnished in the prescribed form and verified in the prescribed manner.

**Proposed Provision:**

It is proposed to amend the provision of section 139 so that furnishing of return of income under section 139 may be made mandatory for every resident having any assets (including financial interest in any entity) located outside India or signing authority in any account located outside India. Furnishing of return by such a resident would be mandatory irrespective of the fact whether the resident taxpayer has taxable income or not.

**⊗ Implication:**

This amendment enhances the scope for individual for filling of Income tax return.

W.E.F : 1<sup>st</sup> April, 2012 i.e. A.Y 2012-13.

### **Power of the DRP to enhance variations**

#### **Section 144C:**

##### **Existing Provision:**

To resolve the cases involving transfer pricing issues in the case of any person having international transactions or in case of a foreign company, Dispute Resolution Panel (DRP) was constituted. Under sub-section (8) of section 144C, DRP may confirm, reduce or enhance the variations proposed in the draft order of the Assessing Officer.

##### **Proposed Provision:**

It is proposed to insert an Explanation in the provisions of section 144C to clarify that the power of the DRP to enhance the variation shall include and shall always be deemed to have included the power to consider any matter arising out of the assessment proceedings relating to the draft assessment order. This power to consider any issue would be irrespective of the fact whether such matter was raised by the eligible assessee or not.

### **Reassessment of Income in relation to any asset located outside India**

#### **SECTION 149:**

##### **Existing Provision:**

The time limit for issue of notice for reopening an assessment on account of income escaping assessment is 6 years.

##### **Proposed Provision:**

It is proposed to amend the provision of section 149 so as to increase the time limit for issue of notice for reopening an assessment to 16 years, where the income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment.

##### **⊗ Implication :**

This amendment enhances the scope of department to scrutinize the cases.

W.E.F : 1<sup>st</sup> July, 2012 i.e. A.Y 2012-13.

### **Notification of a class of search cases where compulsory reopening of past 6 years not required**

SECTION : 153A:

**Existing Provision:**

It is mandatory to issue a notice for filling of tax returns for 6 assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A.

**Proposed Provision:**

It is proposed that the provision of section 153A may be amended so as to empower the Central Government to notify(except in cases where any assessment or reassessment has been abated) cases or class of cases in which the Assessing Officer shall not issue notice for initiation of proceedings for preceding 6 assessment years. However, action for completion of assessment proceedings for the assessment year relevant to the previous year in such class of cases in which search or requisition has been made would be taken.

**⊗ Implication :**

This would result in initiating assessment proceedings only for the assessment year relevant to the previous year in which search or requisition has been made.

W.E.F : 1<sup>st</sup> July, 2012 i.e. A.Y 2012-13.

**Extension of time for completion of assessments and reassessments**

**Section: 153B**

**Existing:**

The existing provisions of section 153 and 153B, inter alia, provides the time limit for completion of assessment and reassessment of income by the Assessing Officer. Time limits have been provided for completion of assessment or

reassessment under section 143(3), 147, 153A, 153C, etc. Further, these time limits get extended if a reference is made under section 92CA to the Transfer Pricing Officer during the course of assessment/reassessment proceedings. These time limits are either from the end of the financial year in which the notice for initiation of the proceedings was served or from the end of the assessment year to which the proceedings relate.

**Proposed:**

It is proposed to amend the aforesaid sections, i.e., 153 and 153B so as to provide that the time limits for completion of assessments and reassessments shall respectively be increased by three months.

The existing period and the new extended period for completion of pending proceedings and subsequent proceedings under these provisions is given below:

**Limitation of time**

<b>Proceedings under section</b>	<b>Current allowed time</b>	<b>Proposed Period</b>
143	21 months from the end of the A.Y.	24 months
143 and 92CA	33 months from the end of the A.Y.	36 months
148	9 months from the end of the F.Y. in which notice issued	12 months
148 and 92CA	21 months from the end of the F.Y. in which notice issued	24 months
250 or 254 or 263	9 months from the end of the F.Y. in which order received	12 months
250 or 254 or 263, and 92CA	21 months from the end of the F.Y. in which order received	24 months

**W.E.F.:- 1<sup>st</sup> July' 2012**

SECTION : 153C:

**Existing Provision:**

It is mandatory to issue a notice for filling of tax returns for 6 assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A.

**Proposed Provision:**

It is proposed that the provision of section 153C may be amended so as to empower the Central Government to notify(except in cases where any assessment or reassessment has been abated) cases or class of cases in

which the Assessing Officer shall not issue notice for initiation of proceedings for preceding 6 assessment years. However, action for completion of assessment proceedings for the assessment year relevant to the previous year in such class of cases in which search or requisition has been made would be taken.

**⊗ Implication:**

This would result in initiating assessment proceedings only for the assessment year relevant to the previous year in which search or requisition has been made.

W.E.F: 1<sup>st</sup> July, 2012 i.e. A.Y 2012-13.

**Notice of Demand**

**Section 156:**

**Existing Provision:**

Any tax, interest, penalty, fine or any other sum is payable in consequence of any order passed under this act, the Assessing Officer shall serve a notice of demand in the prescribed form specifying the sum so payable.

**Proposed Provision:**

It is proposed that where any sum is determined to be payable by the assessee under section 143(1) or 200A(1), the intimation under those sub-section shall be deemed to be the notice of demand for the purpose of section 156.

**Increase of Threshold limit from Rs.2500/- to Rs.5000/- for TDS on payment of interest on debentures**

**Section: 193**

**Existing Provision:**

As per provision, a person responsible for paying interest to a resident individual on listed debentures of a company, in which the public are substantially interested, is not required to deduct tax on the amount of interest payable if the aggregate amount of interest paid during a financial year does not exceed Rs.2,500/- and the interest is paid by account payee cheque. However, in the case of unlisted debentures of a company, no threshold limits is specified for deduction of tax on payment of interest.

**Proposed Provision :**

It is proposed that no deduction of tax should be made from payment of interest on any debenture, (whether listed or not) issued by a company, in which the public are substantially interested, to a resident individual or Hindu undivided family, if the aggregate amount of interest on such debenture paid during the financial year does not exceed Rs.5,000 and the payment is made by account payee cheque.

**Implication:**

It will reduce burden on small assesses and companies.

**W.E.F.:**1st July, 2012.

**TDS on Non-resident entertainer, sports person raised from 10% to 20%**

**Section: 194E**

**Existing Provision:**

As per provision any income received by the non-resident sportsmen (including an athlete) by the way of participation in any game or sports, advertising or contribution of article in any newspaper etc. The income of such sportsmen is taxed at the rate of 10% of the gross receipts. The same regime is also available to a non-resident sports association or institution for guarantee money payable to such institution in relation to any game or sport played in India.

**Proposed Provision:**

It is proposed to provide for withholding of tax at the rate of 20% from income payable to non-resident, non-citizen, entertainer, or sportsmen or sports association or institution.

**Implication:**

It will increase the tax burden on non-resident sports persons, institutions & also bring non-resident entertainer in tax bracket.

**W.E.F.:**1st July, 2012.

## **TDS on remuneration to a director**

### **Section: 194J**

#### **Existing Provision:**

As per provision, a company, being an employer, is required to deduct tax at the time of payment of salary to its employees including Managing director/whole time director. However, there is no specific provision for deduction of tax on the remuneration paid to a director which is not in the nature of salary.

#### **Proposed Provision :**

It is proposed to amend section 194J to provide that tax is required to be deducted on the remuneration paid to a director, which is not in the nature of salary, at the rate of 10% of such remuneration.

#### **Implication:**

**It will bring directors under tax belt who does not receive their remuneration in the nature of salary.**

W.E.F.: 1st July, 2012.

## **Threshold limit enhanced from Rs. 1,00,000 to Rs. 2,00,000 for TDS on compensation or consideration for compulsory acquisition**

### **Section: 194LA**

#### **Existing Provision:**

A person responsible for paying any compensation or consideration for compulsory acquisition of immovable property (other than agricultural land) is required to deduct tax at the rate of 10% in case the consideration exceeds one lakh rupees.

#### **Proposed Provision :**

It is proposed to increase the aforesaid threshold limit from one lakh rupees to two lakh rupees.

#### **Implication:**

It will reduce the compliance burden on small assesses.

**W.E.F.:** 1st July, 2012.

### **TDS on transfer of certain immovable properties (other than agricultural land)**

#### **Existing Provision:**

Newly inserted

#### **Proposed Provision :**

On transfer of immovable property by a non-resident, tax is required to be deducted at source by the transferee. However, there is no such requirement on transfer of immovable property by a resident except in the case of compulsory acquisition of certain immovable properties.

It is proposed to insert a new provision to provide that every transferee, at the time of making payment or crediting any sum by way of consideration for transfer of immovable property (other than agricultural land), shall deduct tax, at the rate of 1% of such sum, if the consideration paid or payable for the transfer of such property exceeds –

(a) fifty lakh rupees in case such property is situated in a specified urban agglomeration; or

(b) twenty lakh rupees in case such property is situated in any other area.

It is further proposed to provide that where the consideration paid or payable for the transfer of such property is less than the value adopted or assessed or assessable by any authority of a State Government for the purposes of payment of stamp duty, the value so adopted or assessed or assessable shall be deemed as consideration paid or payable for the transfer of such immovable property.

For better compliance, it is also proposed to provide that a registering officer appointed under the Indian Registration Act, 1908 (Registrar) shall

not register the transfer of any immovable property where taxes are required to be deducted under this provision unless the transferee furnishes proof of deduction and payment of TDS.

For reducing the compliance burden on the transferee, it is also proposed that a simple one page challan for payment of TDS would be prescribed containing details (including PAN) of transferor and transferee and also certain details of the property.

The transferee would not be required to obtain any Tax Deduction and Collection Account Number (TAN) or to furnish any TDS statement as this would be mostly a onetime transaction. The transferor would get credit of TDS like any other pre-paid taxes on the basis of information furnished by the transferee in the challan of payment of TDS.

**Implication:**

It will transfer of immovable property under TDS Bracket.

**W.E.F:**1st October, 2012.

**TDS on interest received by Non-Resident from Indian Company**

**Section: 194LC**

**Existing Provision:** Newly Inserted

**Proposed Provision:**

Where any income by way of interest is payable to a non-resident, not being a company or to a foreign company by a specified company, the person responsible for making the payment, shall at the time of credit of such income to the account of the payee or at time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct the TDS thereon at the rate of 5%. The interest would be in respect of money borrowed at any time on or after the 1st July'12 but before 1<sup>st</sup> July'2015 in foreign currency, from a source outside India under a loan agreement approved by the Central Government and to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan and its repayment.

**W.E.F.:** 1st July, 2012.

## **Clarification on person responsible for deduction of tax on payments made to non-residents**

### **Section 195**

**Existing provision:** Any **person** responsible for paying to a non-resident, not being a company, or to a foreign company, any interest or any other sum chargeable under the provisions of this Act (not being income chargeable under the head "Salaries" shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force.

Section 195 of the income tax act requires any person to deduct tax at source before making payments to non-resident if the income of such non-resident is chargeable to tax in India.

**Proposed provision:** "Person", here, will take its meaning from Section 2 and would include all persons, whether resident or non-resident as clarified in budget 2012.

**Implications:** If the income of the payee non-resident is chargeable to tax, then tax has to be deducted at source, whether the payment is made by a resident or a non-resident.

**W.E.F 1<sup>st</sup> April, 1962 (retrospectively)**

## **Decrease in age limit of senior citizen from 65 to 60 years for submission of Form 15H**

### **Section: 197A(1C)**

#### **Existing Provision:**

As per current provision, if the senior citizen wants relief from TDS on his income, he needs to submit form 15H stating that his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*. The age limit for senior citizen was 65 years.

**Proposed Provision :**

The age limit for this section has been proposed to be amended from 65 years to 60 years.

**W.E.F.:** 1st July, 2012.

**Extension of time for passing an order under section 201 in certain cases****Section: 201****Existing Provision:**

A person can be deemed to be an assessee in default, by an order, in respect of non-deduction/short deduction of tax. Such order can be passed within a period of four years from end of financial year in a case where no statement as referred to in section 200 has been filed.

**Proposed Provision :**

It is proposed to amend provision of section 201, so as to extend the time limit from four years to six years.

**W.E.F.-**This amendment will take effect retrospectively from 1st April, 2010.

**“Person responsible for paying” clarified in case of payment by Central Government or Government of a State****Section: 204****Existing Provision:**

A “person responsible for paying” has been defined to include employer, company or its principal officer or the payer. There is a lack of clarity in the case of payment made by Central Government or by a State Government as to who is the person responsible for paying the sum to the payee.

**Proposed Provision :**

In order to provide clarity to the meaning of "person responsible for paying" in case of payment by Central Government or a State Government, it is proposed to provide that in the case of payment by Central Government or a State Government, the Drawing and Disbursing Officer or any other person (by whatever name called) responsible for making payment shall be the "person responsible for paying" within the meaning of section 204.

**Implication:**

Clarity regarding the person responsible for payment of Taxes.

**W.E.F.:** 1st July, 2012.

**TCS on cash sale of bullion and jewellery****Section: 206**

**Existing Provision:** Newly Proposed

**Proposed Provision :**

In order to reduce the quantum of cash transaction in bullion and jewellery sector and for curbing the flow of unaccounted money in the trading system of bullion and jewellery, it is proposed to provide that the seller of bullion and jewellery shall collect tax at the rate of 1% of sale consideration from every buyer of bullion and jewellery if sale consideration exceeds two lakh rupees and the sale is in cash. This would be irrespective of the fact whether buyer is a manufacturer, trader or purchase is for personal use.

**Implication:**

Extra burden on buyer. Curbing the flow of unaccounted money.

**W.E.F.:-** 1st July, 2012.

**TCS on sale of certain minerals**

## **Section: 206**

**Existing Provision:** Newly proposed

### **Proposed Provision :**

In order to collect tax at the earliest point of time and also to improve reporting mechanism of transactions in mining sector,

It is proposed that tax at the rate of 1% shall be collected by the seller from the buyer of the following minerals:

- (a) Coal;
- (b) Lignite; and
- (c) Iron ore.

However, the seller shall also not collect tax on sale of the said minerals if the same are purchased by the buyer for personal consumption. Further, the seller of these minerals shall not collect tax if the buyer declares that these minerals are to be utilized for the purposes of manufacturing, processing or producing articles or things.

### **Implication:**

Improvement in reporting.

**W.E.F.:**-1st July, 2012.

## **Exempting senior citizens not having business income from paying advance tax.**

### **Section 207**

#### **Existing Provision:**

Under the existing provision of this section an assessee who is whether citizen of India or not having income under the head "Profits & Gains of Business & Profession" has to pay advance tax if advance tax payable is equal to or more than Rs. 10000/-.

#### **Proposed Provision:**

Under the union budget 2012 it is proposed that an individual who is of the age of sixty or more (Senior Citizen) at any time during the previous

year and also not having income from head "Business & Profession" is not liable to pay advance tax even if such advance tax is more than Rs. 10000/-.

### **W.E.F.: 1st April 2013**

#### **Implication:**

An individual senior citizen is exempted from payment of advance tax if such individual does not have income of Business & Profession.

### **Now Advance tax has to be paid for the income on which TDS is not deducted**

#### **Section 209**

##### **Existing Provision:**

Under the existing provision, the amount of advance tax payable is calculated by reducing the amount of income tax by deductible or collectible during the financial year. In cases where the assessee receives or pays any amount without deduction or collection of tax, such assessee is not required to pay advance tax to the extent the tax is deductible or collectible from such amount.

##### **Proposed Provision:**

Now it is proposed that where an assessee has received any income without deduction or collection of tax, he shall be liable to pay advance tax in respect of such income.

##### **Implication:**

Loophole in the act removed to clutch the chances of complete failure in deposition of tax on both the parts payer and receiver.

### **W.E.F.: 1st April 2013**

### **MAT credit u/s 115JD granted to LLP from tax on total income before computing late return filing interest.**

#### **Section 234A**

**Existing Provision:**

Under the existing provision of this section if the return of income is furnished after the due date or is not furnished, assessee is liable to pay interest at the rate of 1 per cent or part of month. Such interest is calculated on tax of total income after deducting advance tax paid, tax deducted or collected at source, relief u/s 90/90A/91 and MAT credit u/s 115JAA (but not tax paid u/s 140A).

**Proposed Provision:**

Now onwards, from such calculated tax, in addition to the above, MAT credit u/s 115JD (but not tax paid u/s 140A) shall be deducted.

**Implication:**

Now Limited liability partnership firm will get benefit of MAT credit u/s 115JD from tax of total income.

**W.E.F: 1st April 2013****MAT credit u/s 115JD granted to LLP from assessed tax before computing interest of defaults in payment Tax.****Section 234B****Existing Provision:**

Under the existing provision of this section if an assessee is failed to pay advance tax or An assessee who has paid advance tax but the amount of advance tax paid by him is less than 90 per cent of assessed tax. Assessee is liable to pay interest at the rate of 1 per cent or part of month. Such interest is calculated on assessed tax and from such assessed tax advance tax paid, tax deducted or collected at source, relief u/s 90/90A/91 and MAT credit u/s 115JA (but not tax paid u/s 140A) shall be deducted.

**Proposed Provision:**

Now onwards, from such assessed tax, in addition to the above, MAT credit u/s 115JD (but not tax paid u/s 140A) shall be deducted.

**Implication:**

Limited liability partnership firm will get benefit of MAT credit u/s 115JD from assessed tax of total income.

**W.E.F: 1st April 2013**

**MAT credit u/s 115JD granted to LLP from tax before computing interest of deferment of advance tax.**

**Section 234C:**

**Existing Provision:**

Under the provision of this section interest is payable if assessee has not paid Advance tax or Underestimated installments of advance tax. From such calculated tax corporate assessee can availed deduction of Tax deduction or collected at source, relief u/s 90/90A/91 and MAT credit u/s 115JAA (but not tax paid u/s 140A).

**Proposed Provision:**

Now onwards, from such estimated tax, in addition to the above, MAT credit u/s 115JD (but not tax paid u/s 140A) shall be deducted.

**Implication:**

Limited liability partnership firm will get benefit of MAT credit u/s 115JD from assessed tax of total income.

**W.E.F: 1st April 2013**

**Interest on excess refund would be applicable to any proceedings which are completed on or after 1<sup>st</sup> June, 2003, irrespective of the assessment year it pertains.**

**Section 234D**

**Existing Provision:**

Section 234D shall be inserted and shall be deemed to have been inserted means it will take effect from 1<sup>st</sup> day of June, 2003 and no interest would be charged for earlier assessment years even though the regular assessments for such years were framed after 1<sup>st</sup> June, 2003 or refund was granted for those years after the said date.

**Proposed Provision:**

Under the union budget 2012 it is proposed that the provision of section 234D will take effect **on or after the 1<sup>st</sup> Day of June, 2003**, if the proceedings in respect of such year are completed after the said date.

## **Penalty in case of delay or failure to deliver TDS & TCS certificate:**

### **Section 234E**

**Existing Provision:** New Provision proposed

#### **Proposed Provision:**

It is proposed that in case where a person fails to deliver or not delivered a statement of TDS & TCS within the time prescribed, he shall be liable to pay by way of fees a sum of two hundred rupees for every day during which failure continues. This penalty has to be paid before delivering such certificates.

Maximum Penalty Restricted to TDS/TCS Deductible.

#### **Implication:**

Penal provision widened to include penalty on failure or delay to deliver of TDS/TCS Statement.

**W.E.F.: On or After 1st July 2012**

## **Related person for the purpose of making an application before Settlement Commission**

### **Section 245C**

#### **Existing provision:**

Currently, an application can be filed before the Settlement Commission under the provisions of section 245C of the Income-tax Act.

#### **Proposed Provision:**

It is now proposed that an application before the Settlement Commission could even be filed by the person who has Substantial interest in the business of the assessee as on the day of Search.

#### **Implication:**

On account of new amendment now the person is required to be substantially interested as on date of search only.

**W.E.F.:** 1<sup>st</sup> July, 2012.

## **Fee for filing of applications before Authority for Advance Rulings (AAR)**

### **Section 245Q**

#### **Existing provision:**

Under section 245Q of the Income-tax Act, the prescribed fee for filing an application before the Authority for Advance Rulings (AAR) is Rs.2500.

#### **Proposed Provision:**

It is now proposed to amend the provisions of section 245Q to provide for increase in the fee for filing an application for advance ruling from Rs.2500 to Rs.10,000 or such fee as may be prescribed, whichever is higher.

#### **Implication:**

Increase in this fees leads to extra expenses on the path of assessee for filing an application for Advance Rulings.

**W.E.F.:** 1<sup>st</sup> July, 2012.

## **Penalty on undisclosed income found during the course of search**

### **Section 271AAA**

#### **Existing Provision:**

Under the existing provisions of section 271AAA, No penalty is levied if the assessee admits the undisclosed income in a statement under sub-section (4) of section 132 recorded in the course of search and specifies the manner in which such income has been derived and pays the tax together with interest.

#### **Proposed Provision**

It is proposed to provide that the provisions of section 271AAA will not be applicable for searches conducted on or after 1<sup>st</sup> July, 2012.

#### **Implication:**

Under the earlier provisions undisclosed income (for the current year in which search takes place or the previous year which has ended before the search and for which return is not yet due) found during the course of search attracts a tax at the rate of 30% and no penalty is leviable. Thus penalty provisions are now proposed to be covered under the new Section 271AAB as drafted below.

**W.E.F.:** 1<sup>st</sup> July, 2012.

### **Levy of penalty in a case where search has been initiated on or after 1st July, 2012**

#### **Section 271AAB**

#### **Newly Proposed Provision:**

This section provides that:

Undisclosed incomes are admitted during the course of search and furnish the return with payment of tax with its interest.	Liable for penalty at the rate of 10% of undisclosed income (Subject to fulfillment certain Condition)
Undisclosed income is not admitted during the course of search but disclosed in the return of income filed after the search	Liable for penalty at the rate of 20% of undisclosed income (subject to the fulfillment of certain conditions)
In a case not covered under (i) and (ii) above	Liable for penalty at the rate ranging from 30% to 90% of undisclosed income.

#### **Implication:**

Now on account of these penalties assessee will be forced to admit all their assets and sources of income during the search itself in order to secure himself from heavy penalties.

**W.E.F.:-** 1<sup>st</sup> July, 2012

#### **More precise penalty provisions enacted on Assessee.**

#### **Section: 271AA and 271G**

**Existing Provision:**

Section 271AA provides penalty for failure to keep and maintain information and document in respect of International Transaction.

Section 271G provides penalty for failure to furnish information or document under Section 92D which requires maintenance of certain information and documents in the prescribed proforma by persons entering into an International Transaction.

**Proposed Provision:**

It is now proposed to amend Section 271AA to provide levy of a penalty at the rate of 2% of the value of the international transaction, if the taxpayer.-

(i) fails to maintain prescribed documents or information or;

(ii) fails to report any international transaction which is required to be reported, or;

(iii) maintains or furnishes any incorrect information or documents.

This penalty would be in addition to penalties in section 271BA and 271G.

**Implication:**

The earlier scheme of penalty provisions allows for misuse of provisions due to lack of effective deterrent. In order to suppress information about international transactions, some taxpayers may not furnish the report or get the Transfer Pricing audit done. The major penalty of Rs.1 lakh as compared to the quantum of international transactions is not an effective deterrent. There is presently no penalty for non-reporting of an international transaction in report filed under section 92E or maintenance or furnishing of incorrect information or documents. Therefore, there is need to provide effective deterrent based on transaction value to enforce compliance with Transfer Pricing regulations which has been pronounced in proposed provision.

**W.E.F.:** 1<sup>st</sup> day of July, 2012.

**Expediting prosecution proceedings under the Act**

**Section: 276C, 276CC, 277, 277A & 278 linked with new Sections 280A, 280B, 280C and 280D.**

**Existing Provision:**

The existing provisions of section 276C, 276CC, 277, 277A and section 278 of the Income-tax Act provide that in a case where the amount of tax, penalty or interest which would have been evaded by a person exceeds one hundred thousand rupees, he shall be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.

In case the amount which would have been evaded by a person does not exceed one hundred thousand rupees, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

Summons trials apply to offences where the maximum term of imprisonment does not exceed two years.

**Proposed Provision:**

It is proposed to strengthen the prosecution mechanism (through new sections 280A, 280B, 280C and 280D) under the Income-tax Act by –

- (i) Providing for constitution of Special Courts for trial of offences.
- (ii) Application of summons trial for offences under the Act to expedite prosecution proceedings as the procedures in a summons trial are simpler and less time consuming.
- (iii) Providing for appointment of public prosecutors.

It is now proposed that where the amount which would have been evaded does not exceed twenty-five hundred thousand rupees, the person shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and with fine.

**Implication:**

Proposed provisions are more precise and strict as compared to earlier ones. More longer period of Imprisonment is proposed.

**W.E.F.:** 1<sup>st</sup> day of July, 2012.

**Authorisation or requisition and subsequent assessment in search cases****Section: 292CC****Existing Section:**

Provision newly pronounced.

**Proposed Provision:**

It is now proposed to insert a new section 292CC in the Income-tax Act to provide that –

(i) It shall not be necessary to issue an authorization under section 132 or make a requisition under section 132A separately in the name of each person;

(ii) where an authorization under section 132 has been issued or a requisition under section 132A has been made mentioning therein the name of more than one person, the mention of such names of more than one person on such authorization or requisition shall not be deemed to construe that it was issued in the name of an association of persons or body of individuals consisting of such persons;

(iii) notwithstanding that an authorization under section 132 has been issued or requisition under section 132A has been made mentioning therein the name of more than one person, the assessment or reassessment shall be made separately in the name of each of the persons mentioned in such authorization or requisition.

**Implication:**

In a recent Court decision, it has been held that in search cases arising on the basis of warrant of authorization under section 132 of the Act, warrant of authorization must be issued individually and if it is not issued individually, assessment cannot be made in an individual capacity. It was also held that if the authorization was issued jointly, the assessment will have to be made collectively in the name of all the persons in the status of association of persons/body of individuals. This decision being not in accordance with the legislative intent a new section is proposed.

On account of this provision, Search Officers have additional powers to search the persons mentioned in single warrant.

**W.E.F.:** 1st day of April, 1976,

## **Indirect tax proposals**

### **Service Tax :**

#### **Effective Rate of Service Tax :**

Service tax rate proposed to be 12% from existing rate of 10%.

#### **Negative List of services :**

First time, from this budget, a negative list of the services has been proposed u/s 66 D as follows. Only the 17 services included in this list are those which are exempt from service tax. All other services have come under the net of service tax.

1. Services by Government or a local authority excluding the following services to the extent they are not covered elsewhere—
  - services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than Government;
  - services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
  - transport of goods or passengers; or
  - support services, other than services covered above.
2. Services by RBI.
3. Services by International bodies and diplomatic missions located in India.
4. Agriculture operations related to production including cultivation, harvesting, threshing, plant protection or seed testing, supply of farm labour, process which do not alter essential characteristics of agricultural produce but make it only marketable for the primary market, renting or leasing of agro machinery or vacant land, loading unloading packing storage or warehousing of agriculture produce, agricultural extension services, service for sales or purchase of agriculture produce.
5. Trading of goods.
6. Manufacturing or production of goods.

7. Advertisement for space and time slots other than broadcasted by radio and television.
8. Services by way of access to a road or bridge on payment of toll charges.
9. Betting gambling or lottery.
10. Admission to entertainment events or access to amusement facilities.
11. Transmission or distribution of electricity.
12. Services by way of—
  - pre-school education and education up to higher secondary school or equivalent;
  - education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
  - education as a part of an approved vocational education course;
13. Services by way of renting of residential dwelling for use of residence.
14. Financial sector - Dividends on investments, sale and purchase of securities, debts, mutual funds, foreign exchange sold by authorised dealers. Interest on discounting of cheques, promissory notes, bills of exchange or debt instruments.
15. Transportation of passenger - metered cabs, auto rickshaws, non-AC railways or metro, public transport buses and ships with conditions.
16. Transportation of goods
  - By road except GTA or courier agency
  - By aircraft or vessel from a place outside India to the first customs station of landing in india
  - By inland waterways.
17. Social welfare and public utilities like funeral, burial, mortuary services.

### **Section 66 E : Declared services**

This is a new section inserted. This clarifies that the following services, where apparently, it is not clear that whether there is an element of service involved in such activities or not, will be considered as services for

the purpose of service tax provisions. Therefore, following activities will be considered as declared as services.

- Renting of immovable property.
- Construction of the complex building civil structure or a part there of except where the entire consideration is received after issuance of completion certificate.
- Construction includes addition, alteration, replacements or remodeling of any existing civil structure.
- Temporary transfer or enjoyment of any intellectual property.
- Development design, programming, customization, adaptation, up gradation, enhancement, implementation of IT software.
- Agreeing to the obligation to remain from an act or to tolerate an act or a situation or to do an act.
- Transfer by way of hiring leasing or any other manner without transfer of rights to use such goods.
- Activities in relation to delivery in hire purchase or any system of payment by installment.
- Service in relation to execution of work contract.
- Services in relation to human consumption are supplied in any activity.

### **Section 66F :**

Unless otherwise specified, reference to a service (herein referred to as main service), shall not include reference to a service which is used for providing main service. Further..

- Specific heading to prevail over general.
- Classification as if goods consisted material/component which give them essential character.
- If the service is not covered under above then it shall be treated as provision of single service which results in highest liability of service tax.

### **Section 68 (2) New Reverse Charge Mechanism**

Section 68 (2) of the finance act 1994 is being amended before to put the onus of the payment of service tax on reverse charge basis partly on service provider and partly on service receiver. The scheme is proposed to be made applicable on three specific services i.e. hiring of means of transport, construction and man power supply.

W.e.f. : - Date as prescribed by the Central govt. by notification

### **Section 72 A (1) Special Audit**

If Commissioner of Central Excise has reasons to believe that

- Taxpayer fail to declare or determine value of service correctly
- availed any unutilized credit of tax
  - I. Which is not in normal limit or any other relevant factor as he may deem fit
  - II. By mean of fraud ,collusion or any willful misstatement or suppression of facts: or
- Operations are spread out at multiple locations & it is not possible to obtain true and complete picture of his account t from registered premises

Then he may direct to him to get his accounts audited by CA or Cost Accountant nominated by him for the period specified by commissioner.

This Sub Section 1 shall have effect notwithstanding that the accounts of such person have been audited under any other law for the time being in force.

### **Section 73K**

For the words one year, wherever they occur, the word 'eighteen months' shall be substituted for the specified category of offence under section 73 (1)

### **Section 80L (2)**

Notwithstanding anything in the provision of section 76,77, 78, no penalty shall be imposed for failure to pay tax as on 6th day of march 2012

subject to the condition that the amount with interest is paid in full within 6 months from the date of finance bill, 2012 receives the assent of the President.

### **Section 85 (N) 3A**

An appeal shall be presented within 2 months from the date of receipt of decision or order of adjudicating authority made on or after finance bill 2012 receives the assent. Only if the commissioner of central excise appeals if satisfied with the cause of appellant can allow to present the same in further one month.

### **Section 86 O (3)**

Every appeal under sub section 2 or 2A shall be filed within 4 months from the date of the order sought to be appealed

Section 97 Special Provision for Exemption in certain cases relating to management etc of roads

- Notwithstanding anything contained in section 66, no service tax shall be levied or collected in respect of management, maintenance or repair of roads, during the period on and from the 16th day of June, 2005 to the 26th day of July, 2009 (both days inclusive).
- Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.
- 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, 2012 receives the assent.

### **Section 98 Special Provision for Exemption in certain cases relating to management etc of non-commercial government building**

- Notwithstanding anything contained in section 66, no service tax shall be levied or collected in respect of management, maintenance or repair of non-commercial Government buildings, during the period on and from the 16th day of June, 2005 till the date on which section 66B comes into force.

- Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.
- 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,2012 receives the assent.

## **Excise Duty :**

### **Excise Duty**

#### **Increase in threshold limit of duty from Rs.1,00,000 to Rs. 30,00,000**

**Section:** 9(1)(1)

**Existing:** In case of an offence relating to any excisable goods, whether duty leviable thereon under the act exceeds Rs.1,00,000.

Proposed: The existing limit of duty enhanced from Rs. 1,00,000 to Rs. 30,00,000

#### **Certain offences to be non – cognizable**

**Section: 9A**

#### **Existing provision:**

Notwithstanding anything contained in the Code of Criminal Procedure, 1898, offences under section 9 shall be deemed to be non-cognizable within the meaning of that Code.

#### **Proposed Amendment:**

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act (except an offence punishable for a term of imprisonment of three years or more under section 9) shall be non-cognizable.

#### **Power of search and seizure**

**Section: 12F**

#### **Existing:**

(1) Where the Joint Commissioner of Central Excise or Additional Commissioner of Central Excise has reasons to believe that any documents

or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any Central Excise Officer to search and seize or may himself search and seize such documents or books or things.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizure, shall, so far as may be, apply to search and seizure under this section as they apply to search and seizure under that Code.

**Proposed:**

The provisions of the Code of Criminal Procedure, 1973 relating to search and seizure shall, so far as may be, apply to search and seizure under this section subject to the modification that subsection (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the words "Commissioner of Central Excise" were substituted.'

**Enhancement of Power to arrest**

**Section: 13**

**Existing:**

Any Central Excise Officer not below the rank of Inspector of Central Excise may, with prior approval of the Commissioner of Central Excise, arrest any person whom he has reason to believe to be liable to punishment under this Act or the rules made there under.

**Proposed:**

(1) If an officer of Central Excise empowered in this behalf by general or special order of the Commissioner of Central Excise has reason to believe that any person has committed an offence punishable under this Act, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest.

(2) Every person arrested under sub-section (1) for an offence shall, without unnecessary delay, be taken to a Magistrate.

(3) Where an officer of Central Excise has arrested any person under sub-section (1), for any offence (other than an offence punishable for a term of imprisonment of three years or more under section 9), he shall, for the purpose of releasing such person on bail or otherwise, have the same powers and be subject to the same provisions as the officer-in-charge of a police station has, and is subject to, under the Code of Criminal Procedure, 1973.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act (except an offence punishable for a term of imprisonment of three years or more under section 9) shall be bail able.

(5) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable for a term of imprisonment of three years or more under section 9 shall be cognizable.

**Bail for offence punishable for a term of imprisonment of three years or more under section 9 not to be granted without hearing public prosecutor.**

**Section: 13A**

**Existing: Newly Proposed**

**Proposed:**

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no person accused of an offence punishable for a term of imprisonment of three years or more under section 9 shall be released on bail or on his own bond unless—

(i) The public prosecutor has been given an opportunity to oppose the application for such release; and

(ii) where the public prosecutor opposes the application, the Magistrate is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:

Provided that a person who is under the age of eighteen years or is a woman or is sick or infirm, may be released on bail if the Magistrate so directs.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no police officer shall, save as otherwise provided under this Act, investigate into an offence under this Act unless specifically authorized by the Central Government by a general or special order, and subject to such conditions as may be specified in the order."

**Searches and arrests how to be made**

**Section: 18**

**Existing:**

All searches made under this Act or any rules made there under and all arrests made under this Act shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898 relating respectively to searches and arrests made under that Code.

**Proposed:**

All searches under this Act or the rules made there under and all arrests under this Act

shall, save as otherwise provided under this Act, be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, relating respectively to searches and arrests under that Code."

**Disposal of persons arrested has been omitted**

**Section: 19**

**Existing:**

Every person arrested under this Act shall be forwarded without delay to the nearest Central Excise Officer empowered to send persons so arrested to a Magistrate, or, if there is no such Central Excise Officer within a reasonable distance, to the officer-in-charge of the nearest police station.

**Proposed:**

This section has been proposed to be omitted.

**Omission of section 20 i.e Procedure to be followed by officer-in-charge of police station.**

**Section: 20**

**Existing:**

The officer-in-charge of a police station to whom any person is forwarded under section 19 shall either admit him to bail to appear before the Magistrate having jurisdiction, or in default of bail forward him in custody to such Magistrate.

**Proposed:**

The provisions related to section 19 has been omitted and all the provisions of Central Excise Act 1944 would be applicable.

**Power to grant exemption from duty of excise**

**Section: 5A**

**Proposed:**

No.1/201 0-CE dated 6th February, 2010 provides exemption from Central Excise duty to goods cleared from new units or units that have undertaken substantial expansion in the State of Jammu and Kashmir. It is being amended retrospectively from the date of issue of the said notification to provide that for units undertaking substantial expansion in terms of the notification, the exemption period of ten years would be computed from the date of commercial production from the expanded capacity. This would clarify the policy intent.

### **Amendment in Third Schedule**

Third Schedule of the Central Excise Act relating to the deeming of certain processes as amounting to "manufacture" is being amended to include cigarettes. Accordingly, the packing, or repacking in a unit container, labeling or relabeling of containers including the declaration or alteration of Retail Sale Price on it or adoption of any treatment to render cigarettes marketable shall be processes amounting to manufacture.

## **Custom Duty :**

### **Amendments In The Customs Act, 1962:**

#### **Inclusion of Air Freight Station in the definition of Custom Airport**

##### **Section: 2(10)(aa)**

##### **Existing:**

"customs airport" means any airport appointed under clause (a) of section 7 to be a customs airport;

##### **Proposed:**

Clause (1) of section 2 is being amended to include air freight stations in the definition of "customs airport".

#### **Appointment of Air Freight Station**

##### **Section: 7(1)(aa)**

##### **Existing:**

As per existing provision the places which alone shall be inland container depots for the unloading of imported goods and the loading of export goods or any class of such goods;

##### **Proposed:**

Clause (aa) of Section 7 is being amended to include "air-freight stations".

These amendments would empower the Central Board of Excise and Customs to appoint air freight stations for unloading of import cargo and loading of export cargo as in the case of Inland Container Depots.

### **Allowance to Importers to pay custom duty electronically**

#### **Section: 47**

##### **Proposed:**

Section 47 is being amended to insert a new proviso therein to provide that the Central Government may, by notification in the official gazette, specify the class or classes of importers who shall pay customs duty electronically.

##### **Power to arrest**

#### **Section: 104**

##### **Existing:**

(1) Where an officer of customs has arrested any person under subsection (1), he shall, for the purpose of releasing such person on bail or otherwise, have the same powers and be subject to the same provisions as the officer-in-charge of a police-station has and is subject to under the Code of Criminal Procedure, 1898 (5 of 1898).

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), an offence under this Act shall not be cognizable.

##### **Proposed:**

Section 104 is being amended to provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under the Act (except an offence punishable with term of imprisonment of three years or more under section 135) shall be non-cognizable and bailable. It also provides that all offences punishable with a term of imprisonment of three years or more under section 135 shall be cognizable.

Section 104A is being inserted to provide that bail in the case of offences punishable with a term of imprisonment of three years or more under section 135 shall not be granted by a Court or Magistrate without an opportunity being given to the Public Prosecutor to present his case. It also provides that in the case of minors, infirm and women, the Magistrate may grant bail. It also excludes the jurisdiction of police officers to initiate investigation of offences under the Customs Act, unless authorized in this behalf by the Central Government by a special or general order

### **Adjudication of confiscations and penalties**

#### **Section: 122**

##### **Existing:**

Under this Chapter in which anything is liable to confiscation or any person is liable to a penalty, such confiscation or penalty may be adjudged,

(a) Where the value of the goods liable to confiscation does not exceed two lakh rupees, by an Assistant Commissioner of Customs or Deputy Commissioner of Customs;

(b) Where the value of the goods liable to confiscation does not exceed, ten thousand rupees, by a Gazetted Officer of Customs lower in rank than an Assistant Commissioner of Customs or Deputy Commissioner of Customs.

##### **Proposed:**

Section 122 is being amended to enhance the monetary limits for adjudication of cases involving confiscation of goods and imposition of penalty from Rupees two lakh to Rupees five lakh for Deputy/ Assistant Commissioners and from Rs.10,000 to Rs.50,000 for Gazetted officer lower in rank to Assistant/ Deputy Commissioner

### **Offences to be tried summarily**

#### **Section: 138**

##### **Existing:**

Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), an offence under this Chapter other than an offence punishable under clause (i) of sub-section (1) of section 135 or under sub-section (2) of that section may be tried summarily by a Magistrate.

**Proposed:**

Section 138 deals with summary trial of offences. This section is being amended to exclude offences punishable with term of imprisonment of three years or more under section 135 since it is being proposed that such offences shall be cognizable.

**Inclusion of Courier Service in Service of order & decision**

**Section: 153**

**Existing:**

Any order or decision passed or any summons or notice issued under this Act, shall be served -

- (a) by tendering the order, decision, summons or notice or sending it by registered post to the person for whom it is intended or to his agent; or
- (b) if the order, decision, summons or notice cannot be served in the manner provided in clause (a), by affixing it on the notice board of the customs house.

**Proposed:**

Section 153 is being amended to bring 'courier services' within its ambit for the purpose of serving any order/decision/ summons/notice by the Commissioner.

**Special provisions exempting additional duty of customs on import of foreign-going vessels into India.**

Exemption from additional duty is being provided retrospectively to "foreign going vessels" for the period from 1st March, 2011 to 16th March, 2012.



Thank you!

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