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Budget maintains low profile on Indirect tax front

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AS the nation stands on the cusp of major overhaul in the current indirect tax regime, it comes as no surprise that the Union Budget 2017 was largely a populist budget with no significant changes in indirect tax laws.

In general, median rates of excise duty, customs duty and service tax have been kept intact. Contrary to industry's anticipation of an increase in service tax rate to 18 percent to bring the same in line with GST, the Finance Minister maintained a status quo on the rate of service tax. Such an increase would have been retrograde and led to inflationary pressures in a challenging economic environment.

Another step in right direction is certain changes proposed in the customs and excise duty rates to incentivise 'Make in India' Scheme by reducing duties on raw materials & consumables, rationalise excise duty inversion prevailing for certain products, grant of exemptions on point of sale devices including their parts etc.

One of the key developments is the proposal to abolish Research and Development Cess ('R&D Cess') effective April 1, 2017. Presently, R&D Cess at the rate of 5 percent is levied on payments made towards import of technology like royalty, technical fee etc. It is notable that the **payments towards import of technology also attract service tax on reverse charge basis**. Presently, R&D Cess becomes cost even for manufacturers as it is not available as credit. Henceforth, R&D Cess will no longer become a cost for any taxpayer.

A prevailing incongruity in the real estate sector has also been removed. Till now, the companies engaged in construction activity often entered into composite contracts with customers. These services involve three components: (i) provision of construction services; (ii) sale of goods (construction materials); and (iii) sale of land. Recently, the Delhi High Court in *Suresh Kumar Bansal - A 2016-TIOL-1077-HC-DEL-ST* observed that the Service Tax (Determination of Value) Rules, 2006 ('Service Tax Valuation Rules') does not provide for exclusion of value of land. In the absence of provision for exclusion of value of land from contract value, service tax is not leviable. In order to neutralise the effect of this judgment, the government has retrospectively amended the Service Tax Valuation Rules providing for exclusion of value of land. It is pertinent to note that where an assessee operates under abatement under Notification No.26/2012-ST dated June 20, 2012, the value of land is to be included for computing service tax liability. The government has, therefore, aligned Service Tax Valuation Rules with the abatement scheme.

In another welcome step, the government has imposed a time limit of 3 months for excise authorities to grant remission from payment of excise duty under Rule 21 of the Central Excise Rules, 2002. This time limit can be extended by 6 months by the superior authority. This move will expedite the process of grant of remission.

In a regressive change proposed under the Cenvat credit scheme, approval of Assistant / Deputy Commissioner of Central Excise will now be required for transferring credit to the new entity resulting from sale of business or shifting of business location. A time limit of 3 months has been specified for excise authorities which can be extended by 6 months by the superior authority.

The Union Budget, 2017 proposes to align the Advance Ruling Authorities of Income Tax vis-a-vis Customs, Central Excise and Service Tax. On the flip side, time limit for pronouncing the ruling has been extended from 90 days to 6 months when the focus should be on speedy disposal of pending matters.

The provisions pertaining to settlement of cases under Customs as well as Central Excise laws have also witnessed some key amendments. A person (other than an assessee) is now eligible to file an application with the Settlement Commission. The provisions enabling rectification of order of Settlement Commission has also been proposed.

There is no doubt that the Finance Minister has tried to assuage the hardships suffered by the rural and middle class due to demonetisation. So far as Indirect Taxes are concerned, the industry expected clear timelines on GST implementation. The Union Budget, 2017 failed to provide clear roadmap in this regard. With the Finance Minister reiterating the government's commitment to roll out GST, the industry now eagerly awaits the biggest indirect tax reform.

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