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HIGHLIGHTS IN THIS EDITION

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Foreign Exchange Management Act

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Dear Reader,

In this edition we have highlighted the most important effects the new budget has, especially for foreign investors. Nevertheless it is a lot to read, but I hope you find the most important facts for you or your company useful.
The budget met a lot of expectations, the GST roll-out with effect 01.04.2016 has not been changed, even if further details are missing. On black money and tax fraud important changes are to be expected, we have clarity on taxation of indirect transfer of shares, wealth tax will be abolished, the ease of doing business in India should be improved and last but not least a huge amount of investment is about to be expected on the spending on infrastructure.So we can be sure that on project taxation, Permanent Establishments and on M&A will be a strong increase on tax issues. We will for sure cover the developments and the issues and the new laws in the next editions.

Yours sincerely

Saskia Bonenberger

I. Tax Rate

No changes have been proposed in the basic Corporate Tax Rates. However surcharge in the case of domestic company having taxable income of Rs. 10 million or more increased by 2%, including on additional income tax payable by companies on distribution of dividend and on buy back of shares.

No change in presently applicable Rates of Tax on foreign companies. Surcharge will continue to be levied @ 2% on tax payable on income exceeding Rupee 10 million but upto Rs. 100 million and on income in excess of Rupee 100 million @ 5%.

No change in the basic rates of income tax as applicable to individuals and other non-corporate assessees. Surcharge on high net worth individuals (having taxable income of more than INR 10 Mil) is to be increased by 2%. This increase in surcharge is stated to be in lieu of scrapping of law relating to Wealth Tax.

The impact of the aforesaid changes is given in the Annexure.

II. Change in definition of Residency status of companies

Under the existing provisions, a company is said to be resident in India, in any previous year, if:

a) It is an Indian company; or

b) during that year, the control and management of its affairs is situated wholly in India.

It is now proposed to amend the existing definition to provide that a company shall be said to be a resident in India in any previous year, if:

a) It is an Indian company; or

b) Its place of effective management, at any time in that year, is in India

The concept of 'Place of effective management' (POEM), as internationally recognized, accepted by OECD and used in India's tax treaties, is proposed to be introduced in the Act.

'POEM' is being defined to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole, are in substance made.

The new concept will have far reaching consequences especially for companies set up overseas by Indian corporate houses which have common board/management as that of Indian holding company.

The expression 'at any time during the year', may also result in exposure to foreign companies as well.

It is proposed that in due course, a set of guiding principles to be followed in determination of 'POEM' would be issued for the benefit of taxpayers as well as tax administration.

This amendment will be applicable from AY 2016-17.

III. Reduction in Tax rate on Royalty/Fees for Technical Services under the Act.

Finance Bill proposes to reduce tax rate to10% from the current tax rate of 25% as per Section 115A of the Act. The same will reduce burden of higher tax rate on a person who is a resident of non- tax treaty country.

The amendment will be applicable from AY 2016-17.

IV. Clarification in respect of Indirect transfer of assets liable to income tax in India.

In terms of an amendment made by the Finance Act, 2012, with retrospective effect from 1st April, 1962, the transfer of an asset or a capital asset, being any share or interest in a company or entity registered or incorporated outside India, was made liable to tax in India, on deeming basis, where share or interest derived, directly or indirectly, its value substantially from assets located in India. The word 'substantially' was however not defined in the Act, which led to uncertainty and disputes, about the scope of the provision.

It is now proposed to clarify the scope of the provision through insertion of an Explanation, which clarifies that the share or interest, shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if on the specified date, the value of such assets-

(i) exceeds the amount of Rupees 100 million and;

(ii) represents at least 50% of the value of all the assets, owned by the company or entity, as the case may be

Where all the assets of such an entity are not located in India, the income from indirect transfer, outside India, of share or interest in such entity, shall be only such part of income, as is reasonably attributable to assets (without deduction of liabilities) located in India, determined in the manner to be prescribed.

Indirect transfer provisions would however not apply to the transferor shareholder of the foreign company holding the Indian assets directly and whose shares/ interest are getting transferred, if the transferor along with its Associated Enterprises has neither the right to control or manage the foreign company nor holds voting power or share capital or interest exceeding five per cent therein.

Further Indirect transfer provisions would also not apply to the transferor shareholder of the foreign company holding the Indian assets indirectly and whose shares/ interest are getting transferred, if the transferor along with Associated Enterprises has neither the right to control or manage the foreign company or the direct holding company, nor holds voting power or share capital or interest exceeding five per cent in the direct holding company by virtue of holding in the foreign company.

This amendment will be applicable from AY 2016-17.

Exemption from Capital gain on indirect transfer of shares pursuant to amalgamation/ demerger of foreign companies

New clauses (viab) and (vicc) have been proposed to be inserted in section 47 to provide that in case of indirect transfer of shares of an Indian company, as referred above, pursuant to amalgamation / demerger of foreign companies shall not be regarded as transfer if the following conditions are fulfilled:

In the case of amalgamation:

- At least 25% of shareholders of amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and

- Such transfer does not attract tax in the home country of amalgamating company

In the case of demerger:

- Shareholders holding at least 75% of shareholding of demerged foreign company continue to remain shareholders of the resulting foreign company; and

- Such transfer does not attract tax in the home country of demerged company.

Corresponding amendments have been made to provide for period of holding and cost of acquisition of previous owner in above cases.

These amendments will be applicable from AY 2016-17.

V. General Anti Avoidance Rules ("GAAR")

GAAR has been deferred by a further period of 2 years. It is now scheduled to come from Assessment Year 2018-19 (i.e. Financial Year 2017-18). Further, as per the announcement made in the Budget, it has been decided that when implemented, GAAR would apply prospectively to investments made on or after 01.04.2017.

VI. Withholding tax obligation on payment made to a Non-Resident

In order to identify the taxable remittances on which tax was deductible but was not deducted, it is proposed that the person responsible for paying any sum to a non-resident (not being a company) or a foreign company, whether or not chargeable under the provisions of the Act, shall furnish information relating to payment of such sum, in the prescribed form and in the manner as may be prescribed. Non-furnishing of the same to attract penalty.

This amendment will be effective from 1st June, 2015.

VII. Rules for giving foreign tax credit

The present provisions under the Act do not provide the manner for granting credit of taxes paid in any country outside India. Accordingly, it is proposed to amend section sub-section (2) of section 295 of the Income-tax Act so as to enable Central Board of Direct Taxes to provide the procedure for granting relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90, or under section 90A, or under section 91, against the income-tax payable under the Act.

This amendment will be effective from 1st June, 2015.

VIII. Threshold limit for application of Domestic Transfer Pricing provisions increased

For the purpose of increasing threshold limit for attracting transfer pricing provisions to domestic transactions, section 92BA is proposed to be amended to provide revised threshold of Rs 200 million for specified domestic transactions, as against present limit of Rs. 50 million, which is in interest of small and medium enterprises who will be saved of the compliance cost of documentation requirements and other issues.

This amendment will be applicable from AY 2016-17.

IX. Rationalisation of definition of charitable purpose

The activity of Yoga has been included as a specific category in the definition of charitable purpose on the lines of education.

Further, the definition of charitable purpose has been amended to provide that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless-

a) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and
b) the aggregate receipts from such activity or activities, during the previous year, do not exceed 20% of the total receipts, of the trust or institution undertaking such activity or activities, for the previous year.

These amendments will be applicable from AY 2016-17.

X. Rationalisation of provisions relating to accumulation of Income by charitable trusts and institutions

Under the provisions of section 11 of the Act, exemption to trust or institution in respect of income derived from property held under such trust is available if the income derived from property held under trust is applied for the charitable purposes or is accumulated as per various conditions provided in the section. While 15% of the income can be accumulated indefinitely by the trust or institution, 85% of income can only be accumulated for a period not exceeding 5 years subject to the conditions that such person submits the prescribed Form 10 to the assessing Officer in this regard and the money so accumulated or set apart is invested or deposited in the specified forms or modes.

In order to remove the ambiguity regarding the period within which the assessee is required to file Form 10, it is proposed to amend the Act to provide that the said Form shall be filed before the due date of filing return of income.

In case Form 10 is not submitted before this date, then the benefit of accumulation would not be available and such income would be taxable at the applicable rate. Further, the benefit of accumulation would also not be available if return of income is not furnished before the due date of filing return of income.

These amendments will be applicable from assessment year 2016-17.

XI. Orders passed by the prescribed authority under section sub-clauses (vi) and (via) of clause (23C) of section 10 made appealable before Income-tax Appellate Tribunal

Under sub-clause (vi) & (via) of clause (23C) of section 10, any income received by a person on behalf of any approved university, hospitals etc, existing solely for educational purposes/philanthropic purposes and not for purpose of profit, is not liable to tax.

The decision of the Prescribed Authority to refuse to grant approval is however not appealable. Accordingly, it is proposed to amend the sub-section (1) of section 253 so as to provide that an assessee aggrieved by the order passed by the prescribed authority under sub-clause (vi) or (via) of section 10(23C) may appeal to the Appellate Tribunal.

This amendment will take effect from 1st day of June, 2015.

XII. Furnishing of return of income by certain universities and hospitals referred to in section 10 (23C) made mandatory

Under the provisions of section 10 of the Act, exemption under sub-clause (iiiab) and (iiiac) of clause (23C), subject to specified conditions, is available to such university or educational institution, hospital or other institution which is wholly or substantially financed by the Government. Under the existing provisions of section 139, all entities whose income is exempt under clause (23C) of section 10, other than those referred to in sub-clauses (iiiab) and (iiiac) of the said clause, are mandatorily required to file their return of income.

It is now proposed to amend the Act in order to provide that entities covered under clauses (iiiab) and (iiiac) of clause (23C) of section 10 shall be mandatorily required to file their return of income.

This amendment will be applicable from assessment year 2016-17.

XIII. Pass through status to Category –I and Category –II Alternative Investment Funds ("AIF")

The existing provisions of section 10(23FB) of the Act provide that any income of a Venture Capital Company (VCC) or a Venture Capital Fund (VCF) from investment in a Venture Capital Undertaking (VCU) shall be exempt from taxation. Section 115U of the Act provides that income accruing or arising or received by a person out of investment made in a VCC or VCF shall be taxable in the same manner, on current year basis, as if the person had made direct investment in the VCU. The existing pass through is available only to Category-I and Category-II AIFs in respect of income which arises to the fund from investment in VCU which satisfies the conditions prescribed under SEBI Regulations. It is now proposed that:

- Income of investor out of investments made in AIF shall be chargeable to income-tax in the same manner as if it were directly made by him.

- Income in the hands of AIF, other than income from profits and gains of business, shall be exempt from tax.

- Income in the hands of investor which is of the same nature as income by way of profits and gain of business at AIF level shall be exempt. In respect of any other income (not taxable at AIF level) payable to a unit holder, the AIF shall deduct income-tax at the rate of 10%.

- The loss shall not be allowed to be passed through to the investors but would be carried over at fund level to be set off against income of the next year.

- The provisions of Chapter XII-D (Dividend Distribution Tax) or Chapter XII-E (Tax on distributed income) shall not apply to the income paid by AIF to its unit holders.

- It shall be mandatory for AIF to file its return of income.

Further, the existing pass through regime is proposed to be continued to apply to VCF/VCC which had been registered under SEBI (VCF) Regulations, 1996. Remaining VCFs, being part of Category-I AIFs, shall be subject to the new pass through regime. Further, the existing pass through regime is proposed to be continued to apply to VCF/VCC which had been registered under SEBI (VCF) Regulations, 1996. Remaining VCFs, being part of Category-I AIFs, shall be subject to the new pass through regime.

XIV. Taxation Regime for Real Estate Investment Trusts (REIT) and Infrastructure Investment Trusts (Invit)

Under the existing tax regime for the business trust and their investors as introduced last year, the taxation of capital gains arising to the sponsor at the time of exchange of shares in Special Purpose Vehicle (SPV) with units of the business trust gets deferred and is taxed at the time of disposal of such units by the sponsor. However, the preferential capital gains tax regime (even where STT was payable) was not available to sponsors in respect of units of Business Trust.

The specific regime for taxation of REITs / InvITs ('Business Trust') introduced last year provided a deferral of tax in respect of capital gains earned on contribution of the shares of the SPV by the sponsors to Business Trusts. In other words, such sponsors were not liable to capital gains tax arising at the time of exchange of shares in SPVs with units of the Business Trust. However, the sponsors were subject to tax on sale of the units and no preferential capital gains tax regime (even where STT was payable) was made available to sponsors in respect of units of Business Trust.

It is proposed that the benefit of concessional tax regime of tax @15 % on STCG and exemption on LTCG under section 10(38) of the Act shall be available to the sponsor on sale of units received in lieu of shares of SPV subject to levy of STT. STT has also been proposed to be levied to sale of unlisted units of a REIT / InviT, acquired in lieu of shares of SPV, under an initial offer for listing of units of a Business Trust.

Further, the existing pass through is provided in respect of income by way of interest received by the business trust from SPV i.e., there is no taxation of such interest income in the hands of the trust and no withholding tax at the level of SPV. However, the rental income of REIT arising from the assets held directly by it or held through an SPV is not eligible for pass through treatment and is taxable at REIT level. It is proposed that income by way of renting or leasing or letting out any real estate asset owned directly by such REIT, also be eligible for pass through and shall be deemed to be income of such unit holder and shall be charged to tax. The REIT shall effect TDS on rental income allowed to be passed through at the rate of 10% for resident unit holders and at rates in force for non-resident unit holders.

These amendments will be applicable from assessment year 2016-17.

XV. Tax neutrality on merger of similar schemes of Mutual Funds

Under the extant provisions of Act, units acquired as a result of a merger or consolidation of two or more different schemes of Mutual Funds are treated as a transfer, which are taxable in the hands of unit holders under the head capital gains. However, with a view to encourage mutual funds to consolidate different schemes, it is proposed to provide tax neutrality to unit holders upon consolidation or merger of mutual funds schemes provided that the consolidation is of two or more schemes of equity oriented fund or of two or more schemes of a fund other than equity oriented fund.

It is further proposed that the cost of acquisition of the units of the 'consolidated scheme' shall be the cost of units in the 'consolidating scheme' and the period of holding of the units of the 'consolidated scheme' shall include the period for which the units in 'consolidating schemes' were held by the assessee.

The 'consolidating scheme' has been proposed to be defined as the scheme of a mutual fund which merges under the process of consolidation of the schemes of mutual fund in accordance with SEBI Regulations, 1996 and 'consolidated scheme' is the scheme with which the 'consolidating scheme' merges or which is formed as a result of such merger.

This amendment will be applicable from AY 2016-17.

XVI. Incentives for the state of Andhra Pradesh and the state of Telangana

A. Additional Investment Allowance

Section 32AD is proposed to be introduced to provide additional benefit @15% by way of investment allowance on new assets installed in the new manufacturing units set up in the notified backward areas of Andhra Pradesh and Telangana on or after April 1, 2015. This benefit would be available for new asset acquired and installed during the period 1 April 2015 to 31 March 2020.

The term new asset means any new Plant and Machinery but does not include:

(i) any plant or machinery which before its installation by the assessee was used either within or outside India by any other person;

(ii) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;

(iii) any office appliances including computers or computer software;

(iv) any vehicle;

(v) any ship or aircraft; or

(vi) any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head 'Profits and gains of business or profession' of any previous year.

With a view to ensure that the manufacturing units which are set up by availing this proposed incentive actually contribute to economic growth of these backward areas carrying out the activity of manufacturing for a substantial period of time, it is proposed to provide suitable safeguards for restricting the transfer of the plant or machinery for a period of 5 years. However, this restriction shall not apply to the amalgamating or demerged company or the predecessor in a case of amalgamation or demerger or business reorganisation but shall continue to apply to the amalgamated company or resulting company or successor, as the case may be.

This benefit is proposed to be available over and above the existing deduction available under Section 32AC of the Income Tax Act, 1961.

B. Additional Depreciation at the rate of 35%

In addition, 35% additional depreciation is proposed to be allowed to such manufacturing units on new plant and or machinery (other than ships and aircrafts) instead of 20%. Section 32(1)(iia) is proposed to be amended accordingly.

The proposed amendments will be applicable from AY 2016-17.

XVII. Additional depreciation allowance for assets used for less than 180 days

To encourage investment in plant and machinery by manufacturing and power sector, Section 32(1)(iia) is proposed to be amended to provide that in case of assets used for less than 180 days, and additional depreciation has been restricted to 50% of the total additional depreciation in the year, then the balance deduction for additional depreciation will be available in the following year.

The proposed amendment will be applicable from AY 2016-17.

XVIII. Deduction for employment of new workmen

The existing provisions contained in section 80JJAA of the Act, inter alia, provide for deduction to an Indian company, deriving profits from manufacture of goods in a factory. The quantum of deduction allowed is equal to thirty per cent of additional wages paid to the new regular workmen employed by the assessee (employing workmen in excess of hundred workmen) in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

With a view to encourage generation of employment, it is proposed to amend the section so as to extend the benefit to all assessees having manufacturing units rather than restricting it to corporate assessees only. Further, in order to enable the smaller units to claim this incentive, it is proposed to extend the benefit under the section to units employing even 50 instead of 100 regular workmen.

These amendments will be applicable from assessment year 2016-17.

XIX. Cost of acquisition in the hands of resulting company of a capital asset received as per scheme of demerger

Under section 47(vib), any capital asset transferred by the demerged company to the resulting company in the scheme of demerger is not regarded as transfer if the resulting company is an Indian company. In such cases, the cost of asset in the hands of resulting company should be cost of such asset in the hands of demerged company as increased by the cost of improvement, if any, incurred by the demerged company. Further, the period of holding of such asset in the hands of resulting company should include the period for which the asset was held by the demerged company. However, under the extant provisions of the Act, there is no express provision to this effect.

Accordingly, it is proposed to amend section 49(1)(iii)(e) of the Act to include transfer under section 47(vib) and to provide that the cost of acquisition of an asset acquired by resulting company shall be the cost for which the demerged company acquired the capital asset as increased by the cost of improvement incurred by the demerged company.

These amendments will be applicable from AY 2016-17.

XX. Revision of order that is erroneous in so far as it is prejudicial to the interests of revenue

Under the existing provisions of sub-section (1) of section 263, Principal Commissioner or Commissioner is empowered to pass an order modifying the assessment made by the assessing officer or cancelling the assessment and directing fresh assessment, if he considers that any order passed by the assessing officer is erroneous in so far as it is prejudicial to the interests of the Revenue. The interpretation of the expression 'erroneous in so far as it is prejudicial to the interests of the revenue' has been a contentious one.

In order to provide clarity on the issue, it is proposed to provide that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,—

(a) the order is passed without making inquiries or verification which should have been made;

(b) the order is passed allowing any relief without inquiring into the claim;

(c) the order has not been made in accordance with any

order, direction or instruction issued by the Board under section 119; or

(d) the order has not been passed in accordance with any decision, prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

This amendment will take effect from 1st day of June, 2015.

XXI. Amendments with respect to Withholding Tax provisions

- Section 192 is proposed to be amended to provide that employer is required to obtain from the employee the evidence/proof/particulars of prescribed claims including claims for set off of loss, in the form and manner to be provided, for the purpose of computing tax deductible at source from salary.

- Section 194A is proposed to be amended to provide that where the banking company or the co-operative bank or the public company has adopted core banking solutions, the computation of interest income for the purpose of deduction of tax shall be made with reference to the income credited or paid by such banking company or the co-operative bank or the public company, as the case may be, instead of the Branch. Branch wise limit of Rs 10,000 would no longer be applicable. Further, the definition of 'time deposit' to include recurring deposit for the purpose of deduction of tax in case of co-operative banks.

- Section 194C is proposed to be amended to provide that no tax is to be withheld where the contractor owns upto 10 goods carriages at any time during the year and furnishes a declaration to that effect along with his Permanent Account Number.

- Tax Collection at Source ('TCS') provisions rationalized and accordingly processing of TCS statements, levy of penalty for non-filing of statements, intimation generation after processing of tax collection at source statement would be applicable at par with TDS statements.

These amendments will be effective from 1st June, 2015.

XXII. Penalty for concealment of income

Penalty under section 271(1)(c) is levied for concealment of income or furnishing inaccurate particulars of income on the 'amount of tax sought to be evaded'. In this regard, courts have held that such penalty cannot be levied in cases where the concealment of income occurs under the income computed under normal provisions, but the taxpayer has been assessed under the provisions of section 115JB (i.e. MAT) or 115JC (i.e. AMT) of the Act.

In order to overcome this situation, it is proposed to amend section 271 to provide that even if the taxpayer has been assessed under MAT, penalty for concealment would be imposed on the 'amount of tax sought to be evaded', which takes into account income assessed as per MAT provisions and under normal provisions and additions/disallowances made in the assessment order.

The proposed amendment will be applicable from AY 2016-17.

XXIII. Mode of accepting / repaying advances in relation to immovable property transactions

The existing provisions contained in sections 269SS and 269T provide for non-acceptance and non-repayment respectively of sums of loan or deposit exceeding Rs.20,000 otherwise than by account payee cheque or bank draft or online transfer.

In order to curb the generation of black money, it is proposed that the above provisions will apply to sums of money receivable / repayable, as advance or otherwise, in relation to immovable property transactions, irrespective of whether the transfer of such property ultimately takes place.

It is also proposed to make consequential amendments to the penalty provisions under section 271D and 271E for non-compliance with the aforesaid provisions.

These amendments will take effect from 1st day of June, 2015

XXIV. Clarification on search and seizure assessment

As per the existing provisions of section 153C, in case of search and seizure assessment, if any books of account or documents (seized or requisitioned) 'belongs to' any person other than the person being assessed, then such other person can also be assessed by the jurisdictional Assessing Officer if the books of account or documents so seized or requisitioned have a bearing on income of such other person.

Disputes have arisen as to the interpretation of the words 'belongs to' as referred above. Accordingly, it is proposed to amend the aforesaid section to provide that where the Assessing Officer is satisfied that-

a) any money, bullion, jewellery or other valuable article or thing belongs to, or

b) any books of account or documents seized or requisitioned pertain to, or

c) any information contained therein, relates to,

any person, other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.

This amendment will be effective from 1st June, 2015.

XXV. Procedure for filing of appeal by revenue when an identical question of law is pending before Court)

With a view to reduce litigation and to bring parity with recourse available to the assessee in cases where question of law is pending before the Supreme court, the revenue on receipt of adverse order from CIT(A) on the identical issue may file an application with the Tribunal stating that an appeal on the question of law may be filed on receipt of order of the Supreme Court. However, consent of assessee is required.

This amendment will be effective from 1st June, 2015.

XXVI. Rationalisation of provisions of Settlement Commission

In order to rationalise the provisions of Settlement Commission, the following amendments have been proposed with effect from 1st June 2015:

- If a reassessment notice has been issued for any one year, an assessee can approach Settlement Commission for other assessment years involving similar issue relating to escapement of income provided that a valid return of income has been furnished.

- Presently the commission can suo moto rectify a mistake apparent from record within 6 months from the month in which the order is passed (period). It is proposed to permit the rectification of an order on applications by the revenue or the assessee within the said period.

- The Settlement Commission while granting immunity to any person shall record the reasons in writing in the order passed by it.

- If the final settlement order does not provide for terms of settlement, the proceedings will be considered as abated from the day on which such order was passed.

- Restriction to approach the Settlement Commission is strengthened so as to provide that any person related (as defined) to the person who has already approached the Settlement Commission once cannot approach the Settlement Commission subsequently.

- The assets seized or requisitioned under search and seizure may now be adjusted against the tax liability arising on application made before the Settlement Commission.

Abolition of levy of wealth-tax under Wealth-tax Act, 1957

Currently, wealth-tax is levied on an individual or HUF or company, if the net wealth of such person exceeds Rs.30 lakh on the valuation date, i.e. last date of the previous year. For the purpose of computation of taxable net wealth, only few specified assets are taken into account.

As the collection of wealth-tax over the years has not shown any significant growth and has only resulted into disproportionate compliance burden on the assessees and administrative burden on the department, it is, therefore, proposed to abolish the levy of wealth tax under the Wealth-tax Act, 1957 with effect from the 1st April, 2016.ties" and as a result no service tax is presently leviable thereon.

Direct Taxes Code

The introduction of DTC is proposed to be dropped.

TAX Indirect Taxes
Service Tax

I. Change in service tax rate

It is proposed to revise the rate of Service Tax from 12.36% (inclusive of Education Cesses) to 14% (subsuming Education Cesses). In this context, an amendment is being made in section 66B of the Finance Act, 1994. Accordingly, the charging section 66B of the Finance Act, 1994 is being amended to substitute the existing rate with the proposed rate of 14%. Till then, the existing effective rate of 12.36% including 3% Education Cesses will apply.

This change will become effective from a date to be notified after the Finance Bill, 2015 is enacted.

II. Introduction of New levy called 'Swachh Bharat Cess'

The Budget proposes to incorporate an enabling provision to empower the Central Govt. to impose a new cess called 'Swachh Bharat Cess' on all or any of the taxable services at a rate of 2% on the value of taxable services. It may be noted that this cess will be in the nature of additional levy and will be direct addition to the rate of 14% as proposed. This new cess will take effect from a date to be notified by the Central Govt. after the enactment of the Finance Bill, 2015.

III. Negative List

With a view to broadening of the service tax net, certain services are being removed from the Negative List of services on which no service tax is leviable, so as to make them subject to service tax.

Important services which are removed from Negative List are as under:

(a) Presently only "support services" (as defined) rendered by Govt. Or local authorities to a business entity presently are subject to service tax. Other services other than the services referred to in clauses a (i) to (iii) of

Section 66D, are not included in "support services" and thus are excluded from the tax net, at present. It is now proposed to amend "support services" to mean "any service" implying that all services other than those specifically mentioned in Section 66D (a)(i) to (iii) shall be subject to service tax.

(b) Presently, "any process amounting to manufacture or production of goods" is in the Negative List and hence, no tax is leviable thereon.

This is being pruned to exclude any service by way of carrying out any process for production or manufacture of alcoholic liquor for human consumption. This would mean that any contract manufacturing or job work services availed of for production of manufacture of alcohol for human consumption will be subject to service tax.

It may be noted that such contract manufacturing or job working may attract central excise also. By a deeming fiction, service tax is also being sought to be levied on such services.

This amendment will be effective from a date to be notified after the passing of the Budget.

(c) The Negative List presently covers "admission to entertainment events" or access to amusement facilities" and as a result no service tax is presently leviable thereon.

This entry is being deleted from the Negative List and consequently, service tax will be leviable on such services from a date to be notified after the passing of the Budget.

IV. Review of exemptions

4.1 Exemptions which are available to certain services in terms of Mega Exemption Notification No. 25/2012-ST dated 20.06.2012 are being removed.

4.2 Some examples where such exemptions are being removed are referred to below:

Particular	Entry No. of the Notification	Pre-budget	Post-budget	W.e.f	Remark
Services provided to the Government, a local authority or a governmental authority.	12 (Amended)	Currently, there is exemption for construction and related services for specified types of original work structure, when provided to Government or a local/governmental authority	The exemption has been reduced to a selective original work structures as mentioned below: a) a historical monument, archaeological site b)canal, dam or other irrigation work; c)pipeline, conduit or plant for (i)water supply (ii)water treatment, or (iii) Sewerage treatment or disposal.	1st April 2015	Exemption to other services presently covered under S.No.12 is being withdrawn
Service of construction, erection, commissioning or installation of original works as specified, pertaining to airport, port, railways etc.	14 (a) (Amended)	Currently, Service of construction, erection, commissioning or installation of original works pertaining to an airport, port, railways including monorail and metro is exempt	Services pertaining to airports & ports will be taxable	1st April 2015	Other exemption covered under S.No.14 (a) shall remain unchanged
Services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theater, excluding services provided by such artist as brand ambassador.	16 (Amended)	Currently, there is a blanket exemption to all the services provided by a performing artist in folk classical art form of music, dance or theatre.	Now an exemption limit has been set, i.e., where amount charged is up to RS.100,000 per performance, such amount is exempt from tax.	1st April 2015	However, in case such services are provided as a brand ambassador, they shall be continued to be taxable without any limit.
Transportation service of 'food stuff' by rail, or vessels or road.	20 & 21 (Amended)	Currently, transportation service by rail/vessel/road of foodstuff such as flour, tea, coffee, jaggery, sugar, milk products, salt and edible oil excluding alcoholic beverages is exempted	The said exemption has been narrowed down to transportation of only milk, salt, food grains, including rice, pulses and flour.	1st April 2015	

V. New Exemptions

5.1 Certain New exemptions are being proposed. These exemptions take effect from 1st April, 2015. These exemptions include the following:

(a) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables;

(b) Service provided by a Common Effluent Treatment Plant operator for treatment of effluent;

(c) Life insurance service provided by way of Varishtha Pension Bima Yojna;

(d) Service provided by way of admission to a museum, zoo, national park, wild life sanctuary and tiger reserve.

5.2 Exemption widened on service provided by road for transport of export goods from the place of removal to a land custom station (LCS) vide Notification No.4/2015-ST dated 01-03-2015 (Effective from 1st April 2015)

Goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport is exempt from Service Tax vide notification No. 31/2012-ST dated 20.6.2012. Scope of this exemption is being widened to exempt such services when provided for transport of export goods by road from the place of removal to a land customs station (LCS).

VI. Certain Amendments to the Finance Act, 1994 (which regulates service tax levy) regarding penalties

Section 73 is being amended as under:

(i) a new sub-section (1B) is being inserted to provide that recovery of the service tax amount self-assessed and declared in the return but not paid shall be made under section 87, without service of any notice under sub-section (1) of section 73; and

(ii) Sub-section (4A) that provides for reduced penalty if true and complete details of transaction were available on specified records is being omitted.

Section 76 is being amended as under:

Section 76 is being amended to rationalize penalty, in cases not involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner:

(i) penalty not to exceed ten per cent of service tax amount involved in such cases;

Section 78 is being amended as under:

Section 78 is being amended to rationalize penalty, in cases involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner:

(i) penalty shall be hundred per cent of service tax amount involved in such cases;

(ii) penalty equal to 15% of the service tax amount is to be paid if service tax, interest and reduced penalty is paid within 30 days of service of notice in this regard;

(iii) a reduced penalty equal to 25% of the service tax amount determined by the Central Excise Officer, by any order, is to be paid if the service tax, interest and reduced penalty is paid within 30 days of such order; and

(iv) if the service tax amount gets reduced in any appellate proceedings, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25%) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.

VII. Valuation of Service

Reimbursement made taxable under Service Tax

The government has clarified by amending the definition of 'consideration' under Section 67 of the Finance Act, 1994 that the value of reimbursements of all expenses incurred during provision of a taxable service shall be subject to Service tax levy, i.e., it shall form part of consideration.

The above amendment shall override the decision of Honorable Delhi High Court in the case of Intercontinental Consultants & Technorats (P.) Ltd. v. Union of India 2012, wherein it was held that inclusion of value of reimbursement of expenses in value of service by way of Rule 5(7) of Service tax Rules, 1994, is ultra vires of Section 67 of the Finance Act, 1994.

The above change is effective from enactment of Finance Bill, 2015

VIII. Rationalization of Abatements

8.1 At present service tax is payable on 30% of the value of rail transport for goods and passengers, 25% of the value of goods transport by road provided by a goods transport agency and 40% for goods transport by vessels. The conditions also vary. A uniform abatement is now being prescribed for transport by rail, road and vessel. Service Tax shall be payable on 30% of the value of such services subject to a uniform condition of non-availment of Cenvat Credit on inputs, capital goods and input services;

8.2 At present, Service Tax is payable on 40% of the value of air transport of passenger for economy as well as higher classes, e.g. business class. The abatement for classes other than economy is being reduced and service tax would be payable on 60% of the value of such higher classes.

8.3 Abatement is being withdrawn from chit fund service. Consequently, Service Tax shall be paid by the chit fund foreman at full consideration received by way of fee, commission or any such amount. They would be entitled to take Cenvat Credit.

The proposed rationalization in abatements shall come into effect from the 1st day of April, 2015.

IX. Amendments to Service Tax Rules

The amendments include the following:

(a) Registration

Changes brought in Rule 4 of Service Tax Rules by way of Order No. 1/2015 dated 28-02-2015 to specify the procedure to obtain the service tax registration including steps for on-line filing up of Form ST-1, time limit for submission of documents, nature of documents required to be submitted etc.

In case of applicants seeking registration for single premises, it has been clarified by CBEC that service tax registration shall be granted within 2 days of on-line filing of the form. Earlier this time period was 7 days.

This change is applicable w.e.f 1st March 2015.

(b) Digitalization of record etc.

Rule 4C has been introduced to authenticate the challans, invoice issued under Rule 4A and 4B by mode of Digital Signature Certificate. Further, by virtue of Rule 5, preservation of the records related to service tax is allowed to be maintained in the digital form duly authenticated by the digital signature.

X. Amendment to CENVAT Credit Rules

Rule 4(7) is being amended with effect from 1st April, 2015 to allow cenvat credit of service tax paid under partial reverse charge by the service provider without linking it to the payment to the service provided.

XI. Advance Rulings

The facility of Advance Ruling is being extended to all resident firms also.

I. General Changes

- Standard ad valorem rate of duty of excise is being increased from 12% to 12.5%

- Education Cess & Secondary and Higher Education cess on all excisable goods as a duty of excise under section 91 read with section 93 of the Finance Act, 2004 fully exempted vide Notification No. 14/2015-CE dated 01-03-2015 & Notification No. 15/2015 dated 01-03-2015.

II. Changes under Central Excise Act, 1944

(Effective from enactment of the Bill or from a date to be notified)

2.1 Advance Ruling: The facility of Advance Ruling is being extended to all Resident Firms also.Such change will be effective from 1st March 2015.

2.2 Penal provisions under Section 11AC has been rationalized

As in the case of Service tax laws with respect to imposition of penalties, similar changes have also been made under The Central Excise Laws as under:

I. In cases not involving fraud or collusion or willful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of excise duty, in the following manner,-

a) in addition to the duty as determined under sub-section (10) of section 11A, a penalty not exceeding 10% of the duty so determined or Rs.5000/- whichever is higher shall be payable;

b) if duty and interest payable thereon under section 11AA is paid either before issue of show cause notice or within30 days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of said duty and interest shall be deemed to be concluded;

c) if duty as determined under sub-section (10) of section 11A and interest payable thereon under section 11AA is paid within 30 days of the date of communication of order of the Central Excise Officer who has determined such duty, the amount of penalty shall be equal to 25% of the penalty so imposed shall be payable, provided that such reduced penalty is also paid within 30 days of the date of communication of such order; and

d) if the duty amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25% of penalty imposed) shall be admissible if duty, interest and reduced penalty is paid within 30 days of such appellate order.

II. In cases involving fraud or collusion or willful mis-statement of suppression of facts or contravention of any provisionof the Act or rules with the intent to evade payment of excise duty, in the following manner,-

a. if duty and interest payable thereon under section 11AA is paid within 30 days of communication of show cause notice, the amount of penalty payable shall be 15% of the duty demanded, provided that such reduced penalty is also paid 30 days of communication of show cause notice and all proceedings in respect of said duty and interest shall be deemed to be concluded;

b. if duty as determined under sub-section (10) of section 11A and interest payable thereon under section 11AA ispaid within 30 days of the date of communication of order of the Central Excise Officer who has determined such duty, the amount of penalty shall be equal to 25% of the duty so determined, provided that such reduced penalty is also paid within 30 days of the date of communication of such order; and

III. Amendment in Central Excise Rules, 2002

(Effective from 1st March 2015 unless otherwise specified)

- Rule-10 is being amended to provide for digitally signed invoices and preservation of records in electronic form by a manufacturer.

I. Certain amendments with respect to penal provisions under Customs Law

a) Section 28 is being amended so as to:

i. Insert a proviso in sub-section (2) thereof to provide that in cases not involving fraud or collusion or willful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of duty, no penalty shall be imposed if the amount of duty along with interest leviable under section 28AA or the amount of interest, as the case may be, as specified in the notice, is paid in full within 30 days from the date of receipt of the notice and the proceedings in respect of such person or other persons to whom the notice is served shall be deemed to be concluded;

ii. Provide that in cases involving fraud or collusion or willful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of duty, the amount of penalty payable shall be 15% instead of the present 25%;

iii. Insert Explanation 3 to provide that where a notice under clause (a) of sub-section (1) or sub-section (4) of section 28, as the case may be, has been served but an order determining duty under sub-section (8) has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, then, without prejudice to the provisions of sections 135, 135A and 140, as may be applicable, the proceedings in respect of such person or other persons to whom the notice is served shall be deemed to be concluded if the payment of duty, interest and penalty under the proviso to sub section (2) or under sub-section (5), as the case may be, is made in full within 30 days from the date on which such assent is received.

b) Section 112 is being amended as under:

Section 112 provides for penalty for improper importation of goods, etc. Section 112 is being amended so as to substitute sub-clause (ii) of clause (b) to provide that any person who acquires possession of or is in any way concerned with or in any other manner deals with any dutiable goods, other than prohibited goods, which he knows or has reasons to believe are liable to confiscation under section 111, shall, subject to the provisions of section 114A, be liable to a penalty not exceeding 10% of the duty sought to be evaded of `5000, whichever is greater. It is also being provided that in cases of short levy or non-levy or short payment or non-payment and erroneous refund of duty for reasons of collusion or any willful misstatement or suppression of facts, if the duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within 30 days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to paid by such person under this section shall be 25% of the penalty so determined.

c) Section 114 is being amended as under:

Section 114 provides for penalty for attempt to export goods improperly, etc. Section 114 is being amended so as to substitute clause (ii) to provide that any person who, in relation to any dutiable goods, other than prohibited goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall, subject to the provisions of section 114A, be liable to a penalty not exceeding 10% of the duty sought to be evaded of `5000, whichever is greater. It is also being provided that in cases of short levy or non-levy or short payment or non-payment and erroneous refund of duty for reasons of collusion or any willful mis-statement or suppression of facts, if the duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within 30 days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to paid by such person under this section shall be 25% of the penalty so determined.

II. Advance Rulings

The facility of Advance Ruling is being extended to all resident firms also.

Foreign Exchange Management Act

I. Certain amendments with respect to Foreign Exchange Management Act, 1999 ("FEMA")

To specifically deal with the Black Money parked outside India, special provisions have been proposed to be made in FEMA.

As a measure to curb the Black Money, a new section 37A is proposed to be inserted in FEMA. Pursuant to this, if any person holds any foreign exchange, foreign security or any immovable property outside India in contravention of section 4 of FEMA and the Foreign Government does not provide the assistance for seizure of any such assets, the equivalent value of such foreign exchange, foreign security or immovable property can be seized in India.

After section 37 of the FEMA, the following section shall be inserted, namely:—

37A. (1) Upon receipt of any information or otherwise, if the Authorised Officer prescribed by the Central Government has reason to believe that any foreign exchange, foreign security, or any immovable property, situated outside India, is suspected to have been held in contravention of section 4, he may after recording the reasons in writing, by an order, seize value equivalent, situated within India, of such foreign exchange, foreign security or immovable property:

Provided that no such seizure shall be made in case where the aggregate value of such foreign exchange, foreign security or any immovable property, situated outside India, is less than the value as may be prescribed.

(2) The order of seizure along with relevant material shall be placed before the Competent Authority, appointed by the Central Government, who shall be an officer not below the rank of Joint Secretary to the Government of India by the Authorised Officer within a period of thirty days from the date of such seizure.

(3) The Competent Authority shall dispose of the petition within a period of one hundred eighty days from the date of seizure by either confirming or by setting aside such order, after giving an opportunity of being heard to the representatives of the Directorate of Enforcement and the aggrieved person.

Explanation – While computing the period of one hundred eighty days, the period of stay granted by court shall be excluded and a further period of at least thirty days shall be granted from the date of communication of vacation of such stay order.

a) Section 2 - Insertion of New Definitions

(i) After clause (c), the following clause shall be inserted, namely:–

(cc) "Authorised Officer" means an officer of the Directorate of Enforcement authorised by the Central Government under section 37A;

(ii) After clause (g), the following clause shall be inserted, namely:–

(gg) "Competent Authority" means the Authority appointed by the Central Government under sub-section (2) of section 37A;

b) Section 6 - Capital Account Transaction

Existing Provisions

(1) Subject to the provisions of sub-section (2), any person may sell or draw foreign exchange to or from an authorized person for a capital account transaction.

(2) The Reserve Bank may, in consultation with the Central Government, specify-

(a) any class or classes of capital account transactions which are permissible;

(b) the limit up to which foreign exchange shall be admissible for such transactions:

Provided that the Reserve Bank shall not impose any restriction on the drawl of foreign exchange for payments due on account of amortization of loans or for depreciation of direct investments in the ordinary course of business.

(3) Without prejudice to the generality of the provisions of sub-section (2), the Reserve Bank may, by regulations, prohibit, restrict or regulate the following –

(a) transfer or issue of any foreign security by a person resident in India;

(b) transfer or issue of any security by a person resident outside India;

(c) transfer or issue of any security or foreign security by any branch, office or agency in India of a person resident outside India;

(d) any borrowing or lending in rupees in whatever form or by whatever name called;

(e) any borrowing or lending in rupees in whatever form or by whatever name called between a person resident in India and a person resident outside India;

(f) deposits between persons resident in India and persons resident outside India;

(g) export, import or holding of currency or currency notes;

(h) transfer of immovable property outside India, other than a lease not exceeding five years, by a person resident in India;

(i) acquisition or transfer of immovable property in India, other than a lease not exceeding five years, by a person resident outside India;

(j) giving of a guarantee or surety in respect of any debt, obligation or other liability incurred-

(i) by a person resident in India and owed to a person resident outside India; or

(ii)by a person resident outside India.

(4) A person resident in India may hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India.

(5) A person resident outside India may hold, own, transfer or invest in Indian currency, security or any immovable property situated in India if such currency, security or property was acquired, held or owned by such person when he was resident in India or inherited from a person who was resident in India.

(6)Without prejudice to the provisions of this section, the Reserve Bank may, by regulation, prohibit, restrict, or regulate establishment in India of a branch, office or other place of business by a person resident outside India, for carrying on any activity relating to such branch, office or other place of business.

(4) A person resident in India may hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India.

(5) A person resident outside India may hold, own, transfer or invest in Indian currency, security or any immovable property situated in India if such currency, security or property was acquired, held or owned by such person when he was resident in India or inherited from a person who was resident in India.

(6)Without prejudice to the provisions of this section, the Reserve Bank may, by regulation, prohibit, restrict, or regulate establishment in India of a branch, office or other place of business by a person resident outside India, for carrying on any activity relating to such branch, office or other place of business.

Proposed amendments

(i) In sub-section (2), for clause (a), the following clause shall be substituted, namely:—

(a) any class or classes of capital account transactions, involving debt instruments, which are permissible;

(ii) After clause (b), the following clause shall be inserted, namely:—

(c) any conditions which may be placed on such transactions;

Provided that the Reserve Bank or the Central Government shall not impose any restriction on the drawal of foreign exchange for payments due on account of amortization of loans or for depreciation of direct investments in the ordinary course of business.

(iii)After sub-section (2), the following sub-section shall be inserted, namely:—"

(2A) The Central Government may, in consultation with the Reserve Bank, prescribe–

a) any class or classes of capital account transactions, not involving debt instruments, which are permissible ;

b) the limit up to which foreign exchange shall be admissible for such transactions; and

c) any conditions which may be placed on such transactions.

(iv) Sub-section (3) shall be omitted

(v) After sub-section (6), the following sub-section shall be inserted, namely:—

(7) For the purposes of this section, the term "debt instruments" shall mean, such instruments as may be determined by the Central Government in consultation with the Reserve Bank

c) Section 18 – Establishment of Appellate Tribunal

Existing Provision

The Central Government shall, by notification, establish an Appellate Tribunal to be known as the Appellate Tribunal for Foreign Exchange to hear appeals against the orders of the Adjudicating Authorities and the Special Director (Appeals) under this Act.

Proposed amendment

(i) In section 18 of the Foreign Exchange Act, after the words "Adjudicating Authorities", the words "Competent Authorities" shall be inserted.

d) Section 46 – Power to make rules

Existing Provision

(1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for, -

(a) the imposition of reasonable restrictions on current account transactions under section 5;

(b) the manner in which the contravention may be compounded under sub-section (1) of section 15;

(c) the manner of holding an inquiry by the Adjudicating Authority under sub-section (1) of section 16;

(d) the form of appeal and fee for filing such appeal under sections 17 and 19;

(e) the salary and allowances payable to and the other terms and conditions of service of the Chairperson and other Members of the Appellate Tribunal and the Special Director (Appeals) under section 23;

(f) the salaries and allowances and other conditions of service of the officers and employees of the Appellate Tribunal and the office of the Special Director (Appeals) under sub-section (3) of section 27;

(g) the additional matters in respect of which the Appellate Tribunal and the Special Director (Appeals) may exercise the powers of a civil court under clause (i) of sub-section (2) of section 28;

(h) the authority or person and the manner in which any document may be authenticated under clause (ii) of

section 39; and

(i) Any other matter which is required to be, or may be, prescribed.

Proposed amendments

(i) In sub-section 2, after clause (a), the following clauses shall be inserted, namely:-

(aa) the instruments which are determined to be debt instruments under sub-section (7) of section 6;

(ab) the permissible classes of capital account transactions in accordance with sub-section(2A) of section 6, the limits of admissibility of foreign exchange, and the prohibition, restriction or regulation of such transactions;

(ii) After clause (g), the following clause shall be inserted, namely:—

(gg) the aggregate value of foreign exchange referred to in sub-section (1) of section 37A

e) Section 47 – Power to make regulations

Existing Provisions

(1) The Reserve Bank may, by notification, make regulations to carry out the provisions of this Act and the rules made thereunder.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for,-

(a) the permissible classes of capital account transactions, the limits of admissibility of foreign exchange for such transactions, and the prohibition, restriction or regulation of certain capital account transactions under section 6;

(b) the manner and the from in which the declaration is to be furnished under clause (a) of sub- section (1) of section 7; (c) the period within which and the manner of repatriation of foreign exchange under section 8;

(d) the limit up to which any person may possess foreign currency or foreign coins under clause (a) of section 9;

(e) the class of persons and the limit up to which foreign currency account may be held or operated under clause (b) of section 9;

(f) the limit up to which foreign exchange acquired may be exempted under clause (d) of section 9;

(g) the limit up to which foreign exchange acquired may be retained under clause (e) of section 9;

(h) any other matter which is required to be, or may be specified.

Proposed amendments

(i) In sub Section (2), for clause (a), the following clause shall be substituted, namely:—

(a) the permissible classes of capital account transactions involving debt instruments determined under sub-section (7) of section 6, the limits of admissibility of foreign exchange for such transactions, and the prohibition, restriction or regulation of such capital account transactions under section 6;

(ii) After clause (g), the following clause shall be inserted, namely:—

(ga) export, import or holding of currency or currency notes;;

(iii)After sub-section (2), the following sub-section shall be inserted, namely:—

(3) All regulations made by the Reserve Bank before the date on which the provisions of this section are notified under section 6 and section 47 of this Act on capital account transactions, the regulation making power in respect of which now vests with the Central Government, shall continue to be valid, until amended or rescinded by the Central Government.

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