



Advocates & Legal Consultants

**BUDGET SNAPSHOT – 2014-15
INDIRECT TAXES**

BUDGET 2014–2015

Indirect Tax Changes

CENTRAL EXCISE

Excise Duty and Education Cess and Secondary & Higher Education Cess thereon maintained at 12 percent, 2 percent and 1 percent respectively.

▪ Exemptions

- ⇒ Un-branded articles of precious metals are being exempted from excise duty for the period 01.03.2011 to 16.03.2012 so as to remove the unintended levy of excise duty on un-branded articles of precious metals for the said period;
- ⇒ Excise duty on Polyester Staple Fiber (“**PSF**”) and Polyester Filament Yarn (“**PFY**”) manufactured from plastic waste or scrap or plastic waste including waste polyethylene terephthalate (“**PET**”) bottles (which is already exempt *m.e.f.* 08.05.2012) is being exempted retrospectively *m.e.f.* 29.06.2010 to 07.05.2012 and intermediate product ‘Tow’ arising during the course of manufacture of such PSF/PFY is being exempted retrospectively *m.e.f.* 29.06.2010 to 10.07.2014 so as to provide relief to the manufacturers of such PSF/PFY and to rectify the unintended levy of central excise duty on tow (an intermediate product) arising during the course of manufacture of such PSF/PFY;
- ⇒ Full exemption from Central Excise duty is being provided to Liquefied Propane and Butane mixture, Liquefied Propane, Liquefied Butane and Liquefied Petroleum Gases (“**LPG**”) for supply to Non-Domestic Exempted Category (“**NDEC**”) customers by the Indian Oil Corporation Limited, Hindustan Petroleum Corporation Limited or Bharat Petroleum Corporation Limited retrospectively from 08.02.2013 so as to treat NDEC customers, such as, hospitals, government canteens, BSF/CISF mess, etc., at par with domestic customers for the purposes of supply of LPG;
- ⇒ Parts of tractors removed from one or more factories of a tractor manufacturer to another factory of the same manufacturer for manufacture of tractors;
- ⇒ DDT manufactured by Hindustan Insecticides Limited for supply to the National Vector Borne Diseases Control Programme (“**NVBDCP**”) of the Ministry of Health & Family Welfare;
- ⇒ HIV/AIDS drugs and diagnostic kits supplied under National AIDS Control Programme (“**NACP**”) funded by the Global Fund to Fight AIDS, TB and Malaria (“**GFATM**”);

- ⇒ Reverse osmosis (“**RO**”) membrane element used in water filtration or purification equipment (other than household type filter);
- ⇒ Forged steel rings used in the manufacture of bearings of wind operated electricity generator (not exempted but duty has been reduced to NIL);
- ⇒ Solar tempered glass used in the manufacture of solar photovoltaic cells/modules, solar power generating equipment/system, and flat plate solar collectors;
- ⇒ Machinery, equipments, etc. required for setting up of solar energy production projects;
- ⇒ Back-sheet and EVA sheet used in the manufacture of photovoltaic cells/modules and specified raw materials used in their manufacture;
- ⇒ Parts consumed within the factory of production for the manufacture of non-conventional energy devices [Sl. No.332 of notification No.12/2012-CE, dated 17.03.2012];
- ⇒ Flat copper wire used in the manufacture of PV ribbons (tinned copper interconnect) for use in the manufacture of solar cells/modules;
- ⇒ Machinery, equipments, etc. required for setting up of compressed biogas plant (Bio-CNG);
- ⇒ Heena powder mixed with a liquid, so far that the liquid is a medium to change the form of heena powder into paste but exemption is not available on the products like heena dye and such other products which are cosmetics and have no ceremonial or traditional value;
- ⇒ Footwear of retail price upto Rs.500 per pair will continue to remain exempted;
- ⇒ Liquefied Propane and Butane mixture, Liquefied Propane, Liquefied Butane and Liquefied Petroleum Gases (“**LPG**”) for supply to Non-Domestic Exempted Category (“**NDEC**”) customers by the Indian Oil Corporation Limited, Hindustan Petroleum Corporation Limited or Bharat Petroleum Corporation Limited retrospectively from 08.02.2013;
- ⇒ Goods supplied to National Technical Research Organisation (“**NTRO**”);
- ⇒ Security threads and security fibre supplied to Security Paper Mill Corporation of India Limited (“**SPMCIL**”) and Bank Note Paper Mill India Private Limited (“**BNPMIPL**”);
- ⇒ Intermediate goods manufactured and consumed captively for further manufacture of matches;

- ⇒ The scope of the Excise Duty exemption to “all goods supplied against International Competitive Bidding” is being clarified to the effect that the said exemption is also available to sub-contractors for manufacture and supply of goods to the main contractor (who has won the bid for the project through ICB) for execution of the said project;
- ⇒ Plastic materials reprocessed out of the scrap or waste and cleared into the DTA by an EOU;
- ⇒ Education cess and secondary & higher education cess (customs component) is being exempted on goods cleared by an EOU into the DTA.

▪ **Amendments**

- ⇒ Principal Chief Commissioner of Central Excise and Principal Commissioner of Central Excise are included in the definition of the Central Excise Officer. [Section 2(b)];
- ⇒ After Section 15 a new Section 15A is inserted in the Central Excise Act so as to empower the Central Government to prescribe an authority or agency to whom the information return shall be filed by the specified persons such as Income Tax Authorities, State Electricity Boards, VAT or Sales Tax Authorities, Registrar of Companies;

Information can be collected for the purposes of the Act, such as, to identify tax evaders or recover confirmed dues. It is also proposed to insert a new Section 15B which provides for imposition of penalty if the information return under Section 15A is not submitted;

- ⇒ Customs and Central Excise Settlement commission has been re-designated as Customs, Central Excise and Service Tax Settlement Commission [Section 31(g) and Section 32(1)];
- ⇒ Section 32E(1) of the Central Excise Act is amended to replace the reference to Section 11AB with a reference to Section 11AA since Section 11AB has been omitted by the Finance Act, 2011;
- ⇒ Applicant can move before Settlement Commission even if he has not filed the tax returns on furnishing reasons [Section 32E(1)];
- ⇒ Section 32E(2) of the Central Excise Act is omitted thereby enabling assessee to approach settlement commission even if its excisable goods/accounts/documents have been seized;
- ⇒ Section 32O(1) of the Central Excise is amended inserting an Explanation to the effect that the “concealment of particulars of duty liability” relates to any such concealment made from the officer of central excise and not from the Settlement Commission;

- ⇒ Tribunal can refuse admission of appeals in case amount involved is below Rs.2 lakh at its discretion [Section 35B(1)];
- ⇒ Section 35C(2A) of the Central Excise Act amended to omit the first, second and third provisos (providing for time-bound disposal of appeals) in view of substitution of section 35F with a new Section *inter alia* providing for pre-deposit upto 10% of duty and penalty before filing appeals;
- ⇒ For Departmental Appeals, CBEC can condone delay upto 30 days, of review by the Committee of Chief Commissioners [Section 35E];
- ⇒ Now before filing the appeal before the Commissioner Appeals, assessee has to mandatorily deposit 7.5% of duty demanded and penalty imposed and 10% in case of appeal before the Tribunal subject to a ceiling of Rs. 10 crores;
- ⇒ Orders of Tribunal can be appealed before the Supreme Court in case disputes relate to taxability or excisability of goods;
- ⇒ Section 35R is amended so as to enable the Commissioner (Appeal) to take into consideration the fact that a particular order being cited as a precedent decision on the issue has not been appealed against for reasons of low amount;
- ⇒ Deemed Manufacturing activity as per third schedule will be liable for assessment based on Retail Sales Price (“**RSP**”) as per Section 4A of the Central Excise Act;
- ⇒ The unit quantity code against certain entries is being changed;
- ⇒ Rule 8 of the Pan Masala Packing Machines (Capacity Determination and Collection of Duty) Rules, 2008 is amended with retrospective effect from 13.04.2010 to provide that where a manufacturer manufactures pouches of different Retail Sale Prices (“**RSPs**”) on a single machine, the duty liability for that month would be the duty applicable to the highest of the RSP so manufactured;

This will align the Pan Masala Packing Machines (Capacity Determination and Collection of Duty) Rules, 2008 with the Chewing Tobacco and Unmanufactured Tobacco Packing Machines (Capacity Determination and Collection of Duty) Rules, 2010 with regard to manufacture of pouches of different RSPs on a single machine under the compounded levy scheme.
- ⇒ The Seventh Schedule to the Finance Act, 2005 dealing with Additional Excise Duty is being amended so as to impose an additional duty of excise at the rate of 5% ad valorem on aerated waters containing added sugar;

- ⇒ Tenth Schedule to the Finance Act, 2010 dealing with Clean Energy Cess is being amended so as to expand the scope of purposes of levy of the said cess to include clean environment initiatives and funding research in the area of clean environment;
- ⇒ Every Assessee shall electronically pay the Excise Duty [Rule 8 of Central Excise Rules, 2002];
- ⇒ New proviso has been inserted in Central Excise Valuation Rules which provides that where price is not the sole consideration for sale of such excisable goods and they are sold by the assessee at a price less than manufacturing cost and profit, and no additional consideration is flowing directly or indirectly from the buyer to such assessee, the value of such goods shall be deemed to be the transaction value.

- Change in Central Excise Duty rates pertaining to the following industries:

INDUSTRY	RATE (%)		
	From	↑↓	To
<i>TOBACCO PRODUCTS</i>			
➤ Cigarettes of length not exceeding 65mm	Rs.509 per thousand	↑	990 per thousand
➤ Cigarettes of other length, Cigars, Cheroots, Cigarillos	Rs.509 to Rs.2875 per thousand depending on length and variety	--	Rs.1995 to Rs.2875 per thousand depending on length and variety
➤ Pan masala	12	↑	16
➤ Unmanufactured Tobacco	50	↑	55
➤ Jarda scented Tobacco, Gutka and Chewing Tobacco	60	↑	70
<i>AGRICULTURE/ AGRO PROCESSING</i>			
➤ Machine used for preparation of meat, fruits, nuts or	10	↓	6

vegetable			
➤ Presses, crushers and similar machinery used in manufacture of wine, cider, fruit juices or similar beverages	10	↓	6
➤ Packing machinery	10	↓	6
<i>METALS</i>			
➤ Winding wire of copper	10	↑	12
<i>TEXTILES</i>			
➤ Polyester Staple Fiber and Polyester Filament Yarn manufactured from plastic waste including waste polyethylene terephthalate (PET) bottles [without CENVAT w.e.f. 11th July 2014]	0	↑	2
➤ Polyester Staple Fiber and Polyester Filament Yarn manufactured from plastic waste including waste polyethylene terephthalate (PET) bottles [with CENVAT w.e.f. 11th July 2014]	0	↑	6
<i>ELECTRONICS/HARDWARE</i>			
➤ Recorded smart card	2 [without CENVAT]	↑	12
	6 [with CENVAT]	↑	
➤ RO membrane element(used in household type filters)	12/10	↓	6
➤ Metal Core PCB and LED driver for use in the manufacture of LED lights and fixtures and LED lamps	12/10	↓	6
<i>CONSUMER GOODS</i>			
Footwear of retail price exceeding Rs. 500/- per pair but not exceeding Rs. 1000/- per pair	12	↓	6

➤ Hand operated sewing machine other than those operated with electric motors (whether in-built or attachable to the body)	2 [without CENVAT] or 6 [with CENVAT]	--	Rationalised
➤ Gloves specially designed for use in sports	12	⇓	2 [without CENVAT] 6 [with CENVAT]
<i>ENERGY SECTOR</i>			
➤ Branded Petrol	Rs. 7.5 per litre	⇓	Rs. 2.35 per litre
<i>MISCELLANEOUS</i>			
➤ Writing and printing paper for printing of educational textbook	2 [without CENVAT] 6 [with CENVAT]	⇑ --	6
<i>ADDITIONAL DUTY OF EXCISE</i>			
➤ Aerated waters containing added sugar	--	⇑	5
<i>CLEAN ENERGY CESS</i>			
➤ Coal, lignite and peat	Rs. 50 per tone	⇑	Rs. 100 per tonne

CUSTOMS

Customs Duty, Education Cess and Secondary & Higher Education Cess thereon maintained at 10 percent, 2 percent and 1 percent respectively

HIGHLIGHTS

- *Exemptions*

Goods	BCD	CVD	SAD
Fatty acids, crude palm stearin, RBD and other palm stearin and specified industrial grade crude oil	√		
Crude glycerine – Manufacturers of soaps	√		
Edible food items such as ground nut / sunflower / canola / mustard oil cake or cake meal (only up to December 31, 2014)	√	√	√
Supply of re-gasified LNG to Pakistan	√		
Pre forms of precious and semi precious stones	√		
LCD and LED TV panels of less than 19 inches	√		
Specified parts of LCD / LED TV	√		
E-book readers	√		
Raw Materials used in	√		

manufacture of Solar backsheets and EVA Sheets			
HIV/AIDS drugs and diagnostic kits imported under National AIDS control Programme if funded by Global Fund to fight AIDS / TB / Malaria	√	√	√
Import of aircraft engines and parts thereof for repair and maintenance of aircrafts used for scheduled operations	√	√	√
All components used in manufacture of personal computers / tablets and wind operated electricity generators			√
Machinery imported duty free for road construction can be sold within 5 years subject to payment of customs duty on depreciated value	√		
Colour picture tubes	√		
Specified inputs (PVC Sheet and Ribbon) used in manufacture of smart cards			√
Raw materials for manufacture of spandex yarn	√		
Flat copper wire used in manufacture of PV ribbons for solar PV cells / modules	√		
The list of specified goods required by handicraft manufacturer-exporters -wire rolls	√	√	√

Specified goods imported for use in the manufacture of textile garments for export subject to condition that the manufacturer produces an entitlement certificate from the AEPC	√	√	
Fusible embroidery motifs or prints, anti-theft devices, pin bullets for packing, plastic tag bullets, metal tabs, bows, ring and slider hand rings imported for manufacture of handloom made ups or cotton made ups or manmade made ups for export.	√	√	√

* BCD – Basic Customs Duty; CVD – Countervailing Duty; SAD – Special Additional Duty

▪ **Retrospective Amendments**

- ⇒ Section 25 is amended to provide that the customs duties on mineral oils including petroleum & natural gas extracted or produced in the continental shelf of India or the exclusive economic zone of India shall not be recovered for the period prior to 7th February, 2002;
- ⇒ Liquefied Propane and Butane mixture, Liquefied Propane, Liquefied Butane and Liquefied Petroleum Gases (“**LPG**”) imported by the Indian Oil Corporation Limited, Hindustan Petroleum Corporation Limited or Bharat Petroleum Corporation Limited, for supply to Non-Domestic Exempted Category (“**NDEC**”) customers is being fully exempted retrospectively *m.e.f.* 8th February, 2013.

▪ ***Amendments***

- ⇒ Education Cess, Secondary and Higher Education Cess are now levied on imported electronic products;
- ⇒ Plants and equipments imported before 2008 for use in projects financed by the UN or an international organization are now being allowed to be transferred / re-exported / sold from the project site subject to conditions;
- ⇒ No certification is required from NHAI or Ministry of Road Transport for availing custom duty exemption on specified goods required for road construction;
- ⇒ Provision for refund of custom duty paid by public funded and other research institutions while importing scientific and technical instruments / apparatus subject to submission of registration certificate from DSIR;
- ⇒ CVD exemption of portable X-Ray machine / system withdrawn;
- ⇒ Safeguard duty can be imposed on raw materials imported by an EOU and cleared into DTA or used in the manufacture of final products and then cleared to DTA;
- ⇒ Filing of a bill of entry is now permissible before filing of Import report for imports through land route;
- ⇒ Tribunal can refuse admission of appeals in case amount involved is below Rs.0.2 million at its discretion;
- ⇒ Now before filing the first appeal before the Commissioner Appeals, assessee has to mandatorily deposit 7.5% of the duty demanded or penalty imposed or both and 10% in case of appeal before the Tribunal subject to a ceiling of Rs. 10 crores;
- ⇒ For Departmental Appeals, CBEC can condone delay upto 30 days, of review by the Committee of Chief Commissioners;
- ⇒ State Governments notified as sponsoring authority for Metro Rail projects under the Project Import Regulations;
- ⇒ The board by order can now constitute committee as may be deemed necessary, earlier the board required to issue a notification in the Official Gazette;

- ⇒ Section 127B (2) of the Customs Act is omitted thereby enabling assessee to approach settlement commission even if its dutiable goods/accounts/documents have been seized;
- ⇒ An application for settlement of cases can also be filed before settlement commission in cases where a Bill of Export, Baggage Declaration, Label or Declaration accompanying the goods effected through Post or Courier have been filed;
- ⇒ There is a change in the name of Settlement Commission from “Customs and Central Excise Settlement Commission” to “Customs, Central Excise and Service Tax Settlement Commission”;

- Change in Basic Customs Duty rates pertaining to the following industries:

INDUSTRY	RATE (%)		
	From	↑↓	To
<i>CHEMICAL AND PETROCHEMICALS</i>			
➤ Reformate	10	↓	2.5
➤ Propane, ethane, ethylene, propylene, butadiene and Ortho-xylene	5	↓	2.5
➤ Denatured ethyl alcohol and methyl alcohol	7.5	↓	5
➤ Crude Naphthalene	10	↓	5
➤ CVD on Anthracite coal, coking coal and other coal	6	↓	2
<i>ENERGY SECTOR</i>			
➤ Coking coal	0	↑	2.5
➤ Steam and bituminous coal	2	↑	2.5
➤ Anthracite and other coal	5	↓	2.5
➤ Metallurgical coke	0	↑	2.5

➤ CVD on Anthracite coal, coking coal and other coal	6	↓	2
<i>RENEWABLE ENERGY</i>			
➤ Forged Steel Rings used in manufacture of bearing of wind operated electricity generators.	10	↓	5
➤ Machinery equipments required for setting up of Solar Energy production Projects / Bio Gas Plants.	10	↓	5
<i>PRECIOUS METALS</i>			
➤ Half cut and broken diamonds	0	↑	2.5
➤ Cut and polished diamonds and colored gemstone	2	↑	2.5
<i>METALS</i>			
➤ Stainless steel flat products	5	↑	7.5
➤ Ships for breaking up / steel grade dolomite and limestone	5	↓	2.5
➤ Coal tar pitch / Battery waste and battery scrap	10	↓	5
➤ Steel grade limestone & steel grade dolomite	5	↓	2.5
<i>ELECTRONIC MACHINERY AND HARDWARE</i>			
➤ Certain types of telephone instruments and mobile phones	0	↑	10
➤ Specified telecom products (not covered under IT Agreement)	0	↑	10
<i>TEXTILES</i>			
➤ Duty free entitlements for import of trimmings and embellishments used by readymade textile garment	3	↑	5

sector for manufacture of garment for export

BAGGAGE

➤ Free Baggage	Rs.35,000	↑	Rs.45,000
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ELECTROLYSERS

➤ Electrolysers and their parts/spares required by caustic soda or caustic potash units and membranes and their parts/spares required by industrial plants based on membrane cell technology	5	↓	2.5
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POLYSTYRENE

➤ Polystyrene (other than moulding power)	7.5	↓	2.5
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- Change in Export Duty rates pertaining to the following industries:

INDUSTRY	RATE (%)		
	From	↑↓	To
METALS			
➤ Bauxite	10	↑	20

- Change in Countervailing Duty rates pertaining to the following industries:

INDUSTRY	RATE (%)		
	From	↑↓	To
<i>ENERGY SECTOR</i>			
➤ Anthracite / coking and other coal	6	↓	2

SERVICE TAX

Service Tax and Education Cess and Secondary & Higher Education Cess thereon maintained at 12 percent, 2 percent and 1 percent respectively.

▪ Exemptions/ Concessions

W.e.f July, 11, 2014

- ⇒ Life micro-insurance scheme for the poor, approved by IRDA, where sum assured does not exceed Rs. 50,000 [Rupees Fifty Thousand];
- ⇒ Transport of organic manure by vessel, rail or road (by GTA);
- ⇒ Loading, unloading, packing, storage or warehousing, transport by vessel, rail or road (“**GTA**”), of cotton, ginned or baled;
- ⇒ Services provided by common bio-medical waste treatment facility operators to clinic establishments;
- ⇒ Services received by RBI from global financial institutions in the course of management of foreign exchange reserve e.g. external asset management, custodial services, securities lending services etc;
- ⇒ Services provided by Indian tour operator to foreign tourists in relation to a tour wholly conducted outside India;

W.e.f. October, 01, 2014

- ⇒ Abatement increased from 50 per cent to 60 per cent in respect of transport of goods by vessel [effective service tax rate will be 4.944 per cent];

Retrospective

- ⇒ Retrospective exemption granted in respect of-

Services provided by Employees’ State Insurance Corporation (“**ESIC**”) during the period prior to July, 01, 2012;

▪ **Amendments**

- ⇒ Service tax is now also leviable on sale of space or time for advertisement online and by mobile advertisement;
- ⇒ Services provided by radio-taxis/radio-cabs whether air-conditioned or not, brought under service tax;
- ⇒ The CENVAT Credit can be taken after payment of Service Tax to the Department in respect of full reverse charge. The condition pertaining to the payment of invoice value before taking credit is no more relevant;
- ⇒ Exemption in respect of services provided to Government or local authority or Governmental authority will be limited to-

Services by way of-

- water supply,
 - public health,
 - sanitation conservancy,
 - solid waste management or slum improvement and upgradation;
- ⇒ Services brought under the reverse charge mechanism [with immediate effect]:-
- Services by Director to a body corporate;
 - Services by recovery agents to Banks, financial institutions and NBFC
- ⇒ “Auxiliary education services” provided to educational institutions has been specifically defined. Only the below mentioned services provided to eligible educational institutions are exempt from Service Tax:-
- Transportation of students, faculty, staff;
 - Catering services;
 - Security or cleaning or house-keeping services;
 - Services relating to admission or conduct of examination.
- ⇒ Exemption withdrawn in respect of:
- Clinical research on human participants;
 - Air-conditioned contract carriages like buses

- ⇒ Re-credit of Cenvat credit reversed on account of non-receipt of export proceeds within the specified period, to be allowed, if such export proceeds are received within one year from the specified period, on the basis of documentary evidence of receipt of payment [effective from 11th July 2014];
- ⇒ CENVAT credit on inputs, capital goods or input services shall be taken within six months from the date of the invoice or challans or other specified documents [*w.e.f.* 1st September 2014];
- ⇒ In GTA, service receiver may avail abatement without obtaining CENVAT credit certificate from the service provider [effective from 11th July 2014];
- ⇒ The procedure for SEZ unit has been simplified [Notification No. 12/2014];

Applicable w.e.f^t October 2014

- ⇒ In case of reverse charge, point of taxation will be the payment date or first day after three months from the date of invoice, whichever is earlier;
- ⇒ In renting of motor vehicle, portion of service tax payable by service provider and service receiver will be 50% each;
- ⇒ In respect of abatement notification for rent a cab or tour operator, main contractor is allowed to take the credit of service tax paid to sub-contractor engaged in the same line of business;
- ⇒ In case of valuation of works contract, categories 'B' and 'C' are being merged into one category and service portion shall be 70% for both;
- ⇒ The simple interest rates per annum (for delayed payment of Service Tax) shall be as below:

Extent of delay	Simple interest rate per annum
Upto six months	18%
From six months and upto one year	24%
More than one year	30%

- ⇒ Rules for determination of rate of exchange will be prescribed;
- ⇒ Time limit for completion of adjudications to be prescribed under Section 73;

- ⇒ In case of serious offences involving fraud, suppression of facts, collusion, willful misstatement, penalty shall not be waived off even if the details of transaction are available in the specified records [Reference to Section 78 deleted from Section 80];
- ⇒ Every Assessee shall electronically pay the Service Tax [Rule 6 of Service Tax Rules];
- ⇒ Now before filing the appeal before the Commissioner Appeals, assessee has to mandatorily deposit 7.5% of tax demanded and penalty imposed and 10% in case of appeal before the Tribunal subject to a ceiling of Rs. 10 crores. [Section 83];
- ⇒ Service tax liability of predecessor can be recovered from the property of successor even after transfer of property in the name of successor [Section 87];
- ⇒ Place of Provision shall be location of service receiver in case of hiring of vessels (excluding yachts) or aircrafts;
- ⇒ Intermediary of goods to be given the same treatment as is given to intermediary services for the purpose of Rule 9 (c) of Place of Provision Rules;
- ⇒ Place of provision of repair service carried out on temporarily imported goods shall be the place where repair is carried out as per Rule 4 of POPS. Proviso has been omitted from Rule 4.

DISCLAIMER

The current document is a private document for the benefit of our clients. Please note that this is only a summary of the budget changes in respect of Indirect Taxes. It is advisable to seek specific legal opinion on any particular provision or changes from experts.

CONTACT US



Advocates & Legal Consultants

New Delhi: R-1, Second Floor, Park View Apartments,
Hauz Khas Enclave; New Delhi – 110 016 India

Bangalore: 516, 10th A Cross, 29th Main,
Sector 1, HSR Layout, Bangalore- 560 034 India

Phone: 91-11-2651 0505
Telefax: 91-11-2651 1505
Mail: mail@lexport.in
Weblink: www.lexport.in