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20th Dec 2012

To,  
**Shri P. Chidambaram**  
Hon'ble Finance Minister  
Govt. of India  
19, Safdarjung Road, New Delhi-110 011

**Subject: Union Budget Proposal (2013-14)**

Sir,

Indian Industries Association (IIA) is an apex body of Micro, Small and Medium Enterprises (MSME). Through detailed discussions with the experts and feedback from our more than 5000 members we have drafted this Budget Proposal with specific reference to Micro, Small and Medium Scale Industries in the country for your kind consideration.

I also take the opportunity to request for an exclusive meeting of prominent MSME Association representatives from all over the country with you to discuss the Budget Proposals for upliftment of this vital sector of the Indian Economy.

I hope that you will be considerate enough to spare some of your valuable time for a meeting with the delegation of Indian Industries Association at the earliest possible convenience.

Thanking you.

Yours truly,

**Jugal Kishore**  
President

## **Union Budget Proposals / Recommendations 2013-2014**

### **1- INCOME TAX**

#### **(a) Additional Depreciation/Investment Allowance/ Standard Deduction to MSME**

Micro, Small and Medium Enterprise Sector enormously contributes to the GDP of the country, but still it perpetually struggles for survival due to lack of financial resources. To remain competitive in terms of quality as well as cost, every enterprise needs to constantly review and upgrade its plant and machinery. In spite of being fully aware of steps that need to be taken to ensure long term survival, MSME entrepreneurs are unable to implement their plans due to their inability to spare cash. Rising bank interests rates have further complicated the prospects of survival for MSME sector. Now it is as much responsibility of the government as of the entrepreneur himself to ensure that necessary capital investment in plant and machinery continues so that survival of MSME sector is endurable.

- Therefore, the rate of depreciation on plant and machinery for MSME sector be enhanced to 50% from 15% at present as an incentives for investment in new plant and machines.
- Also the income tax rate for manufacturing enterprises in MSME sector be reduced to 20% from 30% at present. This would unlock some money in the hand of entrepreneur to make capital investment.

#### **(b) System of reprimand for wrong assessments.**

In case of wrong/inflated assessments where assessed income is later on reduced, a system of reprimand should be introduced so that if decision of an Assessing officer is reverted for 25 cases in a year, a reprimand should be issued to the concerned A.O.

#### **(c) Surveys U/S 133 A**

Section 133A has become a means of oppression as this provision is being used indiscriminately only for the purpose of 'surrender of income' under duress with a view to collect Advance Tax and to be able to fulfill the 'quotas' allotted to the authorities. The powers of Surveys u/s 133A should be exercised by the Director of Investigations and only in deserving rare & exceptional circumstances and only when on the basis of specific information and only when he has 'reasons to believe' that income exceeding Rs. 10 lacs is being evaded and the same can be unearthed by resorting to Survey operations

#### **(d) Filing Income Tax returns for loss**

Delay in filing Income Tax returns in the case of loss return, upto the close of financial year should be condoned. Loss in such cases should be allowed to be carried forward There should also be provision for carrying back the losses and allowing its set off from profits of prior years. Benefit of carry forward /set off of loss should also be available against future profits. Belated returns filed U/S 139(4) should also be allowed to be revised.

#### **(e) Rationalising the disallowance of cash payment U/S 40 –A(3)**

Under the provisions of Income Tax Act, expenses entailing cash payment exceeding Rs 20`000.00 at a time to any person (in case of transporters Rs 35`000.00) is disallowed. It should be noted that the above limits have been in place for nearly a decade, whereas the average inflation in the intervening period has been in the vicinity of 10% per annum. It is impractical to carry on day to day business with such measly limits in place for cash payments. As a result of the above artificially low limit in place, payments have to be made in several installments if the recipient is not in a position to accept payment by cheque. Therefore the above limit be reset to at least Rs 1 lac to enable ease of business.

It is therefore recommended that valuation should be based on actual market value for which proper procedures and norms should be prescribed.

**(f) TDS Provisions:**

- TDS amounts should be allowed to be adjusted in any of the Assessment Years up to 3 years following the year of *deduction*. This will take care of the genuine problems of delay *in filing of quarterly returns* especially from Government Departments and will provide convenience to assesseees to get it adjusted in any of the following 3 years also.
- TDS on interest (other than interest on securities) U/S 194-A should be deducted only if interest payment is exceeding Rs. 25000/- P.A. Present limit of Rs.5000/- was fixed long time back and needs revision. In case of Bank, the limit should be increased to Rs 50000 P.A from the present value of Rs 10000/- P.A.
- Threshold limit u/s 194H for payment of commission & brokerage be raised to Rs. 50,000. against the present limit of Rs. 5,000/- fixed long time back. Further the rate of deduction of TDS should be reduced to 5%
- Threshold limit u/s 194J fees for professional or technical services should be raised to Rs. 1,00,000 per annum against the present limit of Rs. 30,000/-
- TDS Deductor is collecting this tax on behalf of the Govt . from the deductee. The onus for its timely payment and its proper reporting including filing of returns is the responsibility of the Deductor . The deductee should not be denied the benefit of credit for any lapse of compliance by the deductor.
- TDS Procedures should be simplified – Periodicity of payment and filing returns should be reduced. Threshold limit of Rs. 50000 per month of TDS should be fixed and any assessee deducting TDS of <50000 per month should be allowed to file annual return. It is pertinent to note here that cost of compliance is prohibitively high in case of small assesseees and needs to be taken into account while prescribing filing/compliance rules.
- *Credit of TDS should be allowed either on the basis of for 26AS or original TDS certificate filed before the AO. Assessee should not be penalized for noncompliance of the deductor.*

**(g) Online tax payment system**

Online tax payment system is cumbersome. For every transaction related to TDS payment under different sections a fresh log in is required. Similarly at the time of Log in full details of the assessee i.e name and address etc is required to be filled in. It is therefore proposed that:

- Assessments should be required to furnish PAN /TAN as the case may be and all other static details should appear automatically.
- In case of TDS payment under different sections facility should be provided for payment under single challan which should have breakup of payment under different sections for departmental accounting purpose.

**(h) Advance Tax**

Interest U/S 234-B should be applicable only in case advance tax paid falls short of 60 % of the total tax payable on the returned income.

Further, for Micro & SSI entrepreneur it is very difficult to calculate/estimate the tax liability for whole year in September or December, because many times they get good business at the far end of the year. Hence, their liability of advance, tax should have provision to pay by Mar.15 without and overdue Interest/Penalty and the threshold limit should be enhanced to Rs 50000/- from the present value of Rs 10000/-.

**(i) T.C.S. @ 1.133%:**

Scrap should be taken out of the list of items for TCS provisions or a limit of Rs 50,000/- should be there for collection TCS in case of Scrap

**(j) Section 269-SS and 269 T**

Threshold limits fixed under section 269SS and 269T for taking or accepting certain loans & deposits and for repayment of loan or deposits, should be raised to Rs. 50,000/-. Present limit of Rs. 20,000/- was fixed long time back.

**(k) Section 50-C- Valuation of assets**

These provisions should be dropped from the act being inequitable because in many states there is no provisions for the rates being fixed by the district officials and in many places the rates are increased on arbitrary basis as revenue yielding exercise by the state Government.

The Hon'ble Supreme Court has consistently held the Circle Rates are mere guidelines and do not have any statutory force. Legally speaking, Stamp Duty is required to be paid on the market value of the property but for all practical purposes, in order to purchase peace, shun litigation and to get back the sale deed after registration; the purchaser is constrained to pay stamp duty on the value as per the 'circle rate' declared by the collector. The seller has to face the rigour of section 50C in these circumstances. The procedure for determination of market value by the departmental valuer is cumbersome and promotes unhealthy practices. It is therefore recommended that valuation should be based on actual market value for which proper procedures and norms should be prescribed.

**(l) Section 40-A(2)(b) regarding salary payments**

At present even if the salary is paid to partners by the firm within the limits of allowability u/s 40(b) the AO is empowered to disallow the salary u/s 40-A(2B). If the salary of partner is paid within limit then the same should not be disallowable u/s 40-A(2B).

## **2- CENTRAL EXCISE**

- (a) Exemption limit of Excise Duty must be minimum Rs.2 Crores instead of Rs. 1.50 Crores and also the figure in para 2(vii) be revised from Rs 300 lacs to Rs 500 lacs.

- (b) Restore the fiscal stimulus by reducing general rate of Excise duty to 8%.
  - (c) All the exempted 120 commodity groups that have been brought under excise net should be subjected to 1% rate of duty along with all the benefits of CENVAT credit to the manufacturer as well as the buyers to ensure there is no cascading effect even if it is as little as 1%.
  - (d) Central govt has allowed duty free garments imports from Bangla Desh, whereas the Govt has imposed excise duty @10% in march 2011 budget. Direct impact of this is that made up garments imported from Bangladesh are cheaper by up to 15%. This will adversely affect the survival of made up garment industry in India. Keeping in view of the above the govt must roll back the excise duty to save the Indian garment industry.
- (e) Exemption of 'Phenol Formaldehyde Resins' from Excise Duty for Plywood manufacturers.**

Notification No. 49/2003-CE Dated 10/06/2003 has been issued By Central Board of Excise and Custom to promote industries in Utrkhand and other state. But the Excise Department is claiming excise duty from plywood industries on 'Phenol Formaldehyde Resins' which is used captively in manufacturing of Plywood, Block Boards and Flush Doors. If department will recover the excise duty on intermediate product then it will defeat the very objective of Exemption notification.

'Phenol Formaldehyde Resins' is an intermediary product which is used in Plywood, Block board, Flush door and particle board.

Further, Central Board of Excise & customs, vide Circular No. 464/30/99-CX dtd30/06/1999 has clarified about the excisability of the Intermediate products such as binder/resin/glues used in the manufacture of particle boards. As per Circular, "binder/resin/glues are specifically developed and made by the industry only for captive consumption and not for external sale. These binders have a very short shelf life of a few hours only and can neither be bottled nor transported nor stored for long. It appears that these intermediate products viz, binder/resin/glues which are captively consumed, are not chargeable to excise duty owing to their short shelf life provided that they are not marketed or sold commercially as such." Hence 'Phenol Formaldehyde Resins' used in particle Board is exempt from excise duty.

As such 'Phenol Formaldehyde Resins' when used by Particle Board manufacturers, is exempted from Excise duty but when used by Plywood Manufacturers for manufacturing of Block Board and Flush door etc it is not exempted from excise duty. Though in case of Plywood Manufacturers also 'Phenol Formaldehyde Resins' is an intermediate product which is used for captive consumption only and due to its short shelf life it can not be marketed or sold commercially.

Excisable duty is leviable on excisable product. Marketability is decisive criteria to make a product excisable. While Phenol Formaldehyde in the instant case is not a product capable of being marketed as such; it gets generated during manufacturing process and is used further captively for the manufacture of Plywood. Hon'ble Commissioner (Appeals), Meerut-II through his Order C. NO. 100 to 101-CE/APPL/M-II/2012 Dated 29.05.2012 in case of Parvatiya Plywood Private Limited has also accepted this plea and ordered that the item Phenol Formaldehyde Resin, Falling

under chapter heading 39094020 of the Central Excise Tariff Act, 1985 manufactured and used captively by the appellants in the manufacture of final products Plywood/ Block Boards/ Flush Doors, is not a dutiable product.

In view of above, we appeal strongly that 'Phenol Formaldehyde Resins' which is used captively in manufacturing of Plywood, Block Boards and Flush Doors should be exempted from Excise Duty as is done in case of Particle Boards.

**(f) Exemption of Continuous Computer Stationery from Excise Duty**

Continuous Computer Stationery is being manufactured from procurement of Paper procured from paper mills duly excise paid @5% is converted into Continuous Computer Stationery by slitting, cutting, printing, punching and perforating.

Pre-printed cheque, forms, stock certificate etc which are prepared in almost similar process from paper are exempted from Excise Duty. However Excise duty is being imposed on "Continuous Computer Stationery". It is also submitted that printing, slitting and cutting processes are also exempted from Excise duty as these processes do not amount to manufacturing.

It is therefore requested that conversion of paper into "Continuous Computer Stationery" may also be exempted from Excise Duty.

### **3- SERVICE TAX**

- a) Since service tax is payable on the basis of point of taxation rules, date for payment of service tax should be 20<sup>th</sup> of next month after the close of quarter. For the quarter ending 31<sup>st</sup> march date of payment should be 30<sup>th</sup> April.
- b) Among all the services covered under the service tax, "Goods transport service happens to be one peculiar example which is subjected to "Regular Charge" as well as "Reverse Charge" depending up on the category of person who availed the GTS services. To elaborate the issue, in accordance with the notification No. 35/2004 - service tax dtd. 3rd. Dec.`2004, except for a proprietorship firm / an individual, all category of GTS service availers have to themselves deposit service tax on GTS services availed and then file returns. For the individuals / proprietorship firms, the transporter will be required to charge and deposit the service tax and file returns of service tax. Thus GTS service has the distinction of being one service where the Service Provider as well as service availers have to get themselves registered under service tax and file returns. Obviously this is one of the most cumbersome and administratively inefficient form of tax collection arrangement.

The fundamental basis of Service tax is "Tax collection on value addition".

However, due to one of the most ill-conceived tax collection arrangement in place for GTS services, the concept of tax on value addition is most inefficient as in most of the cases transporters are charging service tax as well as service availers

are required to pay service tax because they are unable to claim credit of service tax paid to the transporter. This is leading to huge cascading effect.

Over the years, government has been able to get nearly all the transporters to register under Service Tax and all of them are collecting service tax as well as filing returns.

Therefore, the concept of "Reverse Charge" in the Goods transport services must be done away with. Only transporters must collect and deposit service tax on GTS services. All category of GTS service availer be allowed to de-register from service tax and thus finally put an end to duplication of same work.

- c)** In wake of rampant inflation over the years, cost of services have gone up manifold. On top of this extent of coverage of services under service tax *with the introduction of negative list* has also widened enormously. Taxing services @ 12% is contributing hugely to general inflation and is also an incentive for evasion.

Therefore, rate of service tax must also be moderated down to not exceeding 8% .

- d)** As per service tax notification no. 33/2004 dated 3rd December 2004, there is no liability of service tax on transportation of Milk, Eggs, Vegetables. This list had been further extended to Pulses also subsequently.

The criteria for exemption appears the perishable nature of foods products being transported. Bread also falls in the same category **hence Service tax on transportation of Bread should be exempted.**

- e)** Service tax was levied on Industry Associations in 2005 by clubbing them under 'Club or Associations Services' (excluding trade unions, political parties, farmers associations). Industry associations representing the cause of Micro Small and Medium Enterprises (MSME) are like Farmers Association / Trade Unions and they work for the public cause and clubbing them with entertainment clubs is unjust and unfair. **Hence the liability of Service Tax on MSME Industry Association membership fee should be exempted.**

- f)** All kinds of surcharges and Cess should be merged with basic Service tax rates.

- g)** Any entity registered under Service Tax Act / Rules should be allowed to render any other service which is taxable under Service Tax Act without requirement of any additional registration or modification in the existing registration.

- h)** Threshold for applicability of Service Tax should be enhanced from Rs 10 Lacs to 15 Lacs. There should be a threshold limit of Rs 10.00 Lacs for Service recipients also which at present is nil . The cost of compliance for this is relatively very high for all such assesses who are otherwise not subject to any other service tax / cenvat compliance obligations. Putting a threshold will facilitate taking out the small ticket Service Tax payers under this head.

- i)** Entrepreneurs in Micro & Small Sector do not have any social security from Government, so we take Life Insurance, Medical Insurance, General Insurance. Service Tax is applicable on Insurance Premiums also, and recovered from insured. Insurance Premiums should be taken out from Service Tax net.

- j)** Service Tax on rent of immovable property should be abolished, because by no stretch of logic "rent" can be construed as "service". The case of service apartments run on commercial basis may however be different. Treating rent as a

service and applying service tax to it has increased the cost of infrastructure for many SME units. Besides, the very jurisdiction of central govt. to impose tax on immovable property which is a State subject raises a debatable constitutional issue.

- k) Service tax payable under works contract category for compounding scheme should be brought down to 2 % from 4%.
- l) Services in relation to representation made by the Chartered accountants before the Statutory Authorities was exempt from levy of service tax vide notification no. 25/2006 dated 13.7.2006. Notification has been withdrawn from 1.5.2011. Exemption to representative services should be continued.

#### **4- CST, VAT, CENVAT AND GST (Competition on the basis of difference in Tax Rates should be avoided)**

a) **CST –**

At the time of introduction of Nationwide Vat, one of the promises held out by the government was that Central sales tax (CST) rates will be gradually reduced from 4% to 0% in phased manner over three to four years. However, it has been a promise that government appears most reluctant to keep. While the first drop of 1% was prompt. Next drop of 1% came only in July`2008 after a delay of nearly two years. But that is where things rest since. It has been nearly four years now but further reduction to 1% is being avoided on one or the other ground. The State governments on their part promised never to charge any tax other than VAT. However, it now turns out that nearly all the States are charging Additional tax over and above VAT ranging from 1 - 2% and also entry tax ranging from 1 to 5%. There is therefore no justification in continuing with CST @2%.

Therefore, the rate of CST should be immediately brought down to 0% without any further delay. One of the major positive fall out of this move would be push the inflation in to downward spiral and thus hastening the process of normalization of overheated economy.

b) **GST should be implemented:**

Government proposes to introduce GST in the country as a single tax thereby replacing a whole lot of direct/indirect levies e.g. Centvat, Service Tax, VAT etc. Undoubtedly GST is very progressive mode of taxation and is being successfully run in lot of developed and developing economies. Since introduction of GST would be a major change in the system of levying/collection of tax, it is suggested that before implementing GST enough thought should be given and the concerns of MSME about its impact on them considered appropriately to avoid unwarranted hardship. This can be achieved by an effective dialogue and/or white paper on the proposed system and its modalities which should be discussed with various industry associations representing MSME sector.

c) **VAT Rates in all commodities across all States should be uniform**

In the white paper on VAT published by Empowered Committee on state level value added tax it was decided that:



*"all other existing taxes such as Turn over tax, Surcharge, Additional Surcharge and Special addition tax (SAT) would be abolished. There will not be any reference to these taxes in the VAT bills. The states that have already introduced entry tax and intend to continue with this tax should make it vat able. Entry tax will need to be abolished. However this will not apply to entry tax that may be levied in lieu of octroi",*

*Further it was decided "there will be only two basic VAT rates of 4% and 12.5%, plus a specific category of tax-exempted goods and a special VAT rate of 1% only for gold and silver ornaments etc."*

States are not following these basic principles. It is suggested that the states should be restrained from levying any additional tax in addition to VAT and the rates across the country be not increased from the rates as prescribed by the Empowered Committee.

Any amendment having effect on taxability of goods should not be made retrospectively. Further it should not be made applicable from the mid of the month. Notifications issued should give at least 15 days time to dealer to have his system updated.

## **5. OTHER MISCELLANEOUS ISSUES**

### **a. DENIAL OF RIGHT TO EQUALITY TO SMALL SCALE SECTOR**

Though the Government have announced the status of Priority Sector for Micro and Small Industries yet several Central / State Govt. departments are deliberately putting such conditions in their purchase documents so that this sector is kept out of the competition even. These conditions are related to minimum turn over / exorbitantly high earnest money / reservations of items for purchase from some big companies / Govt. undertakings etc.

Micro and Small Scale Sector plays significant and important role in the socio & economic conditions of the Country. Govt. may therefore issue clear instructions not to deny the right to equality to this sector and ensure the implementation of its policies of promotion of this sector in right earnest.

### **b. STRICTER ACCOUNTABILITY**

Enforce stricter accountability for Govt officials delivering various services to citizens. If penal provisions are imposed under taxation laws on assesses for failure to comply with certain rules, the assessing officers should also be liable to penal action if any action by them is found unwarranted or grossly unjustified. In this connection, it is desirable to modify the indemnity clause under section 293 (Chapter XXIII) which, in its present form, provides a blanket protection to erring officials from prosecution or suits or other proceedings. Executive authorities in the implementation of policies/laws/schemes should not be allowed to do wrongs to citizens, abusing the process of law in an unjust or unfair manner in the name of good faith.

Time bound delivery of services should be ensured by making suitable provisions in the Tax Acts / Laws with a provision of fine on Officers for not adhering to the time lines. Wide publicity for these time lines and actions against erring officers should be made.



- c. **No AMMENDMENT HAVING RETROSPECTIVE EFFECT IN TAX LAWS**  
Any amendment having effect on taxability should not be made retrospectively. Such amendments cause serious consequences especially for MSMEs.
- d. **RBI GUIDELINES FOR REHABILITATION OF SICK MSME UNITS**  
RBI has already issued new guidelines for rehabilitation of sick MSMEs but again these guidelines lack teeth. Central Government should put in place more strict guidelines for all Scheduled Commercial Banks for rehabilitation of viable / potentially viable sick MSME units. These guidelines should also be monitored strictly.
- e. **SOCIAL SECURITY TO MSME ENTREPRENEURS**  
MSE entrepreneur is a one man army in his /her enterprise who puts in everything including all the assets and family members into business. In turn pays various taxes to the Government. However, whenever he /she gets old, does not have any social security.  
  
Central Govt. should introduce the social security system for Micro and Small Scale entrepreneurs after the age of their retirement age. A suitable scheme may be devised by the Government to provide Social Security to Micro & Small Entrepreneurs.
- f. **EXIT & INSOLVENCY POLICY FOR MSME**  
Exit & Insolvency policy for MSME pending for long should be put in place at the earliest possible.

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