



Ref. 4/Bdgt/10965

08th Nov 2013

To,
Shri P. Chidambaram
Hon'ble Finance Minister
Govt. of India
North Block
New Delhi - 110 001

Subject: Pre-Budget Proposals (2014-15)

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 6000 members we have drafted the Budget Proposals (as enclosed herewith) 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,

Parmod Miglani
President

Pre-Budget proposals for 2014-15

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 fulfil 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 instalments if the recipient is not in a position to accept payment by cheque. Therefore the above limit be reset to at least Rs 1 lakhs 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 assesses 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 assesses 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 assesses i.e. name and address etc is required to be filled in. It is therefore proposed that:

- Assesses 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) 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.

(i) Section 50-C- Valuation of assets

These provisions should be dropped from the act being inequitable because in many states there is no provision 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.

(k) 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).

(l) Amendment in Section 80JJAA of IT Act 1961 (sub section (1))

Amendment proposed:-

- (a) It is proposed that under this section, instead of 300 days, it may be replaced with 150 days, the eligibility of workers may also include contract/casual workers and instead of 100 workers in a factory, the same may be substituted with 50 workers.
- (b) 30% deduction may also cover the cost of training undertaken by the assessee under ISDS (Component II) scheme of Ministry of Textiles, Government of India.

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 alongwith 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) **Difficulties being faced by the Small Manufacturer Exporters in the country, resulting substantial loss of foreign exchange earnings, request for legal resolution.**

We have received various representations from the members who are manufacturer exporters to 100% export oriented units, units to SEZ or to the projects approved by the Govt. of India or the concerned State Governments which is not a physical export but are termed as the deemed export. Such manufacturer exporters are having huge amount of accumulated balance of credit of duties suffered on such inputs which is refundable in cash to such manufacturer exporters under rule 5 of the CENVAT credit rules, 2004. The jurisdictional authorities of Central Excise, using their discretionary powers are rejecting such refunds of the manufacturer exporters under the plea that rule 5 of the CENVAT credit rules, 2004 provides the refund of such accumulated credit in respect of exports only i.e. Physical exports. This rule does not provide the refund of accumulated credit of inputs consumed in the goods of deemed exports.

Attention is invited towards final order no. A/167/2008-WZB/AHD, dated 06-02-2008 in appeal no. E/368/2006 of CESTAT West Zonal Bench, Ahmadabad in the case of Commissioner of Central Excise, Surat vs Shilpa Copper Wire Industries, laying down that *“in as much as the final product were cleared to another 100% EOU as deemed export, the same has to be treated as export and the refund of unutilized credit has to be made to the assessee.”* The honorable Zonal Bench of CESTAT, Ahmadabad has also analyzed and relied the circular no.220/54/96-CX dated 4 June 1996 issued vide file no. 267/72/96-CX-8, which proves the intention of the legislature is very clear to allow the benefit to the assesses even in the cases of the deemed exports without any difference with physical exports. The apex court of the country has also confirmed the views of honorable Zonal Bench of CESTAT, Ahmadabad in the case of Amitex Silk Mills vs CCE Surat vide order no I – 2005 -TMI – 54619.

Since the intention of the legislature is clear to provide the benefit of rule 5 of CENVAT rules 2004 to the manufacturer exporters without any discrimination between physical exports and deemed export, even the jurisdictional authorities of Central Excise are rejecting such claims and putting the manufacturer exporters into unwarranted and long ending litigations.

It therefore appears very essential that the rule 5 of CENVAT credit rules 2004 may be suitably amended with appropriate words.

It is requested that the said rules may be amended suitably, “Export/deemed export” or “All exports” may be substituted the word export. If this amendment is not possible for any reason a suitable circular in supersession to circular no. 220/54/96-CX dated 4 June 1996 may be issued, leaving no discretionary power to the jurisdictional authorities of Central Excise for putting the assesses in losses and unwarranted litigations.

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 20th of next month after the close of quarter. For the quarter ending 31st march date of payment should be 30th April.

b) Proposal for exemption of Service Tax Reverse Charge on services to MSMEs

The applicability of Service tax Reverse Charge has now been extended further for services provided by Advocates, Security Services, Arbitral Tribunal, Hiring vehicle for passengers, support service by Government or local authority and work contracts etc. in addition to Goods Transport Services.

Moreover the service receiver cannot claim general exemption limit of Rs. 10 lakhs. So he has to pay even on few rupees of service received and have to register himself in service tax and have to file Service tax Return on prescribed intervals. Moreover under Service Tax Act nil return is also mandatory and every registered person has to file half yearly return.

This reverse charge mechanism is too harsh on Micro & Small Enterprises and will be impossible for them to implement. Hence should be exempted to MSMEs.

- c) In wake of rampant inflation over the years, cost of services has 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 and Vegetables. This list had been further extended to Pulses also subsequently.

The criterion 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 and 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 five 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 fallout of this move would be push the inflation in to downward spiral and thus hastening the process of normalization of overheated economy.

Till the time it is not done, the Ministry of Finance may suggest the State Governments to bring the VAT rate of all the items given below and any other items where in most of the States the VAT rate is 12.5% to 4%. This will help the home State units manufacturing such items to reduce their disadvantage / discrimination to the level of 2% as against 10.5% at present.

- Capital Goods.
- All type of Electrical items.
- Fabrication Items.

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 MISCELANEOUS ISSUES

a. 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.

b. MSMEs are facing problems due to banks' half yearly and yearly closing holidays on 31st March and 30th September.

We are receiving complaints from our member MSMEs about banks' annual and half yearly closing holidays on 31st March and 30th September as these days have been declared as non-public dealing days as the banks' need to close their account books for respective half year and year endings. MSME members are facing problems of not being able to make their financial transactions on the said days.

With computerization taking place, these books can be closed on day to day basis and probably no reconciliations are needed as it was in the past.

It is worth noting that some banks are already working on a format of 365 days in a year for their customers using the modern technologies available today. Even RBI has been so aggressive in pushing technology that they have virtually finished the concept of high value clearing forcing the customers to move to RTGS/NEFT.

Therefore, there is a strong need to relook at these holidays which have become redundant over time in view of changed work process. In view of the above circumstances we strongly recommend not to observe 31st March & 30th September as banks' closed days for customer transactions and dealing.

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. INCLUSION OF ALL PORTS FOR 24X7 CLEARANCE FACILITY:-

Instructions were issued vide F.No. 450/25/2009-Cus IV dated 31.05.2013 for 24x7 clearances for 4 ports, however it is proposed that this facility of 24x7 clearance of drawback shipping bills be issued for all ports. All seaports, ICDs may be included for 24 x 7 clearances.

e. FOREIGN TRADE POLICY RELATED SUGGESTIONS:-

It is recommended that schemes of Chapter 3 of FTP may be extended by 3 years upto the year 2015-16, so that exporters can plan their marketing strategies on long term basis. Suggestions are as under:-

1. In non-traditional markets, the duty scrip may be increased from 3% -4% to 5%.
2. In traditional countries like EU and US, duty scrip may be increased from 2% to 3%
3. Under Status Holder Incentive Scheme, the duty scrip may be increased from 1% to 2%
4. Expansion of Market Linked Focus Product Scheme to certain countries.
5. Early finalization of FTA with EU
6. To announce all the benefits in Foreign Trade Policy for three years.
7. Duty Scrip @ 5% on FOB value of exports to countries like Latin America, Australia and New Zealand, where freight charges to FOB are very high.
8. 3% interest subvention may be made available upto 31.03.2015
9. Zero duty EPCG Scheme to be extended in XII Five year plan. Zero duty EPCG Scheme should be made available to Apparel Exporters who have availed benefit of TUFs.

f. SUGGESTIONS FOR AMENDMENT IN FACTORIES ACT, 1948:-

For any industry involved in export business, it is very important that it completes and delivers its shipment on the time agreed with the overseas buyer. In case of industries which are labour intensive, for example, handicrafts, apparels etc, at times they need to work in



extra hours to complete their orders and deliver the shipments in time. Policy intervention for overcoming major non-compliance in such factories through two amendments in the factories Act, 1948 is needed:-

- a) Section 59 - Overtime – wages at the rate of one-and-one quarter times of the regular rate (as per ILO convention) instead of two times. Indian law exceeds the ILO convention.
- b) Section 64 – The cap of 50 hours a quarter should be removed under this section (The para remains ILO compatible).

This is for procedural simplification. Both are ILO compliant.



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08th Nov 2013

To,
Shri Rajiv Mishra
Director (EA)
Office of Development Commissioner
Ministry of MSME
Govt of India
Nirman Bhawan, 7th Floor, Maulana Azad Road
New Delhi - 110108

Subject: Pre-Budget Proposals (2014-15)

Sir,

Kindly refer to your letter no. E 7 (2)/2013 dated 3rd October 2013 whereby you invited suggestions for modifications in direct & indirect tax rate structuring for pre-budget proposals 2014-15.

Accordingly through detailed discussions with the experts and feedback from our more than 6000 members we have drafted the Budget Proposals (as enclosed herewith) with specific reference to Micro, Small and Medium Scale Industries in the country for your kind consideration and forwarding to Ministry of Finance with your recommendations.

Thanking you,

Yours truly,

Parmod Miglani
President