

Union Budget 2010-11  
Pre-budget Memorandum  
Recommendations on Tax



January 2010

# Contents

## Direct Tax

- Personal Taxation
- Corporate Taxation
- International Taxation
- Capital Gains
- Mergers & Acquisitions

## Transfer Pricing

- General
- Dispute Resolution Panel

## Indirect Taxes

- Service Tax
- Excise Duty
- Customs Duty
- VAT/CST



# Direct tax

# Personal taxation

# Personal Taxation

## Residential Status – Individuals

- Explanation to Section 6(1) provides that Indian citizens *leaving* India for the purpose of employment remain non-residents so long as their stay in India is up to 181 days as against 59 days applicable to other individuals
- Similar relaxation could also be provided to *returning* Indian citizens.
- Would provide relief in the first year of return in case of deputing employees

## Contribution to Superannuation Fund

- Amendment could be brought to consider taxing employer's contribution to superannuation fund only on the actual receipt by the employee

# Corporate taxation

# Corporate Taxation

## Tax Rates

- Corporate tax rates should be reduced to 25%
- Surcharge on domestic companies should be reduced to 2.5%
  - Aligned with foreign companies
- Bringing MAT to previous level of 10%
- Reducing DDT to 10%

## Foreign source dividend income

- Section 10(34) provides that dividend received from a domestic company is exempt in the hands of recipient provided the company has paid DDT
- Dividend received from a foreign company is taxable at normal corporate tax rates – usually at higher rates say 30%
- Dividend from foreign company could be taxable at lower rates or alternatively, underlying tax credit could be given
- Could encourage outbound investment in India

## Taxability of Carbon Credits

- Currently, no specific provisions for taxability of carbon credit
- Exemption could be introduced on similar lines like proviso (ii) to section 28(va) – sum received as compensation from multilateral fund of the Montreal Protocol under UN Environment Programme

# Corporate Taxation

## **Section 10(23FB) – Extension of scope**

- Section 10(23FB) provides for exemption to SEBI registered venture capital funds provided the investments are in specified sectors
- The scope should be extended to all sectors
- Would encourage investments in other than specified sectors eg. Real estate, infrastructure, etc.

## **Sections 10A / 10B benefits**

- Benefits granted to STPI / EOU under Sections 10A/10B are expiring on 31 March 2010
- Extension should be granted till 31 March 2015 or alternatively, provisions could be introduced to confer tax benefits to STPI / EOU units by reason of conversion/migration of STPI / EOU units to a SEZ
- Will create a level playing field between units in SEZ and STPI units

## **Section 10A / 10B benefits**

- Benefits under section 10A are granted only if the consideration is brought in India within a period of six months or within extended time allowed by competent authority (i.e. Reserve Bank)
- Clarification to be issued stating that when the competent authority issues any circular for extension of time, no specific approval would be required in such case

## **Section 10AA – SEZ benefits**

- Presently, no benefits are available to an SEZ unit who sell goods to another SEZ unit who in turn exports the goods
- Clarification could be brought stating that those SEZ units selling goods to another SEZ unit would also be eligible to claim SEZ benefits

# Corporate Taxation

## Section 14 A disallowance - Method of computation

- Section 14 A provides for disallowance of expenses in relation to exempt income
- Rule 8D prescribes the method of computation but the same is ambiguous and vague
- Application of Rule 8D gives absurd results like
  - disallowance in excess of the exempt income or
  - inclusion of expenditure that has no connection with the earning of exempt income
- Rule 8D needs to be re-looked and appropriate clarifications required such as
  - No disallowance in the year in which there is no exempt income
  - Option to be given to assessee to prove that the investment are made out of its own funds/reserves – if proved, no disallowance
  - Those investments which yield income which is taxable should not be considered for the purpose of computing disallowance

## Depreciation

- Clarification could be brought in Section 32 for providing full (20%) additional depreciation on plant & machinery used for less than 180 days in the 1<sup>st</sup> year itself or providing the balance of the additional depreciation (50% of 20%) on plant & machinery in the subsequent year
- Could enhance investment in plant and machinery

# Corporate Taxation

## Applicability of MAT provisions

- Section 115JB applies to all companies
- MAT provisions should not apply in case of presumptive taxation
  - Would result in nullifying the benefits granted to non-residents under presumptive taxation
- MAT provisions could be withdrawn for infrastructure projects eligible for 80-IA deduction
  - Could enhance investment in infrastructure sector

# Miscellaneous

Section	Particulars
Section 10(13A)	House Rent Allowance
Section 10(14) r.w. Rule 2BB	Conveyance Allowance and Education Allowance
Clause (v) of proviso to section 17(2)(viii)	Reimbursement of medical expenses
Section 24(b)	Interest on Housing Loan
Section 40A(3)	Disallowance for cash payments exceeding Rs 20,000
Section 44AB	Limit for determining applicability of tax audit
Section 54E	Capital Gains not to be charged on investments in certain bonds
Section 80C	Deduction in respect of specified investments
Section 269SS / Section 269T	Mode of acceptance / repayment of certain loans and deposits

# International taxation

# International Taxation

## Meaning of Business Connection

- Explanation to Section 9(1)(i) defines Business Connection
- Clarification could be inserted in section 9(1)(i) on whether the activity of operations which is confined to the purchase of goods in India for the purpose of export would include the activity of purchase of customised goods made as per the specification and with the supervision of buyer

## Service PE

- Under Indo-US Tax Treaty, Service PE could be constituted if employees of AE are present in India even for a single day and provide services to the AE in India
- A protocol to the Indo-US Tax Treaty may be entered into for increasing the number of days stay in India to 30 days, without creating a Service PE, in line with the treaties with certain countries
- Clarity on tax implications of employees deputed to India may be provided

## Meaning of Royalty

- Explanation to Section 9(1)(vi) defines Royalty
- Clarification required whether payments made for use of software would be classified as use of copyrighted article and would not fall under the ambit of the definition of “royalty”

## Meaning of FTS

- Explanation to Section 9(1)(vii) defines FTS
- Clarification required whether or not professional services would be covered under the above definition

# International Taxation

## Head Office Expenses

- Section 44C provides for a limit of 5% to be claimed as head office expenses
- The ceiling could be increased to 10%
- The ceiling was introduced in 1976 and the scenario has changed considerably since then

## Expenses incurred by foreign Head Office for and on behalf of its branch

- Presently, there are no specific provisions for claiming such expenses
- Clarification could be brought that such payments should be deductible

## Treaty Residence

- As per Circular 789, a certificate of residence issued by tax authorities of Mauritius is accepted as proof of residence for determining residence under the India- Mauritius tax treaty
- The aforesaid benefit could be extended to all countries with which India has a Tax Treaty
- Will enable foreign investors to gain certainty over the treaty applicability and thereby enable them to avail the beneficial provisions under the other tax treaties
- Would minimize litigation

## Overseas LLP / LLC

- In the absence of any specific provisions there is a debate as to whether LLPs/ LLCs should be regarded as partnership or company for the purpose of application of Indian tax treaties to overseas LLPs/ LLCs.
- The status of LLPs / LLCs should be clarified.
- Will enable foreign investors to gain certainty over the treaty applicability and thereby enable them to avail the beneficial provisions under the other tax treaties

# International Taxation

## Applicable tax rates under the domestic tax law

- Section 115A provides that Royalties / FTS are taxable at 10% provided such payment is received from a Government / resident under an agreement which is approved by the Government or relates to a matter covered under the Industrial Policy
- The condition of approval / industrial policy should be deleted in view of the liberalization of exchange control regulations
- The beneficial treatment should also be extended to cover payments made from one non-resident to another non-resident

## Applicable tax rates under tax treaties

- Applicable tax rates under domestic laws for royalty/FTS is 10%
- In some of the tax treaties, rates for royalty / FTS are 15% / 20%
- There is a lack of reciprocity, since the other tax treaty partner pays India tax only at the rate of 10% in line with section 115A regardless of the rate under the tax treaty whereas Indian resident pays tax at 15% / 20% in the foreign country

## Income Characterization in case of Foreign Institutional Investor (FIIs)

- Section 115AD contains provisions for tax on income of FIIs from securities or capital gains arising on their transfer
- Clarification is required in view of divergent judgements given by the Indian courts on characterisation of income from sale of securities and derivative transactions as capital gains or business income

# International Taxation

## Association of Persons (AOP)

- Presently, AOP exists if there are two or more persons joining for a common purpose
- Clarification may be brought so that in situations where the scope and consideration between the persons is identifiable, then it would not result in creation of AOP
- Regarding taxation of members, options could be provided to members of AOP
  - Members to be taxed at the respective rates applicable to members and not at maximum marginal rate
  - Would reduce uncertainty relating to taxation of projects executed by consortium including non-residents

## Payments made to Non-Resident

- Section 195 provides for that any person making payment to a non-resident is responsible for withholding tax thereon at the specified rates
- The payer or recipient can apply to the Tax Officer for a No Objection Certificate
- A reasonable time limit may be prescribed within which the Tax Officer is mandatorily required to issue the certificate or reject the application, as the case may be
- It may be provided that even if an application has been filed to the tax authorities for issue of a tax certificate, till the time tax certificate is issued, the tax payer may be permitted to make the payment abroad after withholding certain percentage of tax and submission of an undertaking to deposit extra tax, if any
- Clarification is required whether or not pure reimbursements of expenses are liable for withholding

# Capital gains

# Capital Gains

## Section 48 – Indexed cost of acquisition

- Presently, indexed cost of acquisition is to be taken from the year in which the asset was held by the assessee
- Clarification should be made for granting indexation benefits from the year in which an asset is acquired by the previous owner
- Amendment should be made for changing the option of substituting the Fair Market Value from the existing 1 April 1981 to 1 April 2000

## Limited Liability Partnerships

- Introducing provisions relating to conversion of partnerships / private companies / unlisted companies into LLP
  - Presently there are no specific provisions prescribing tax treatment on such conversion
  - Memorandum explaining provisions of Finance (No. 2) Bill, 2009 provides that the conversion from a firm to an LLP will have no tax implications only if the rights and obligations of the partners remain the same after conversion **and** if there is no transfer of any asset or liability after conversion. It is also clarified that in case there is any violation of the above conditions, Section 45 would be applicable
- Clarification required with regard to no capital gains tax liability arising on:
  - Transfer of the assets of a partnership / private limited company / unlisted company upon conversion into a LLP
  - Mode of valuation of assets

# Mergers & Acquisitions

# Mergers & Acquisitions

## Section 2(19AA)(iv) – Demerger

- To qualify as demerger under section 2(19AA)(iv), shares of the resulting company should be issued to the shareholders of the demerged company
- Practical difficulties faced in situations like
  - in case liabilities of the demerged unit exceed the assets
  - when a wholly owned subsidiary company demerges its unit in favor of its parent company
- Clarifications required to address the above difficulties

## Section 47 – Transactions not regarded as transfer

- Section 47(vi) – Gains arising to company in case of amalgamation / demerger exempt only if the amalgamated / resulting entity is an Indian company
- Section 47 (vii) Gains arising to a shareholder in case of an amalgamation / demerger of offshore subsidiaries is exempt only if the amalgamated / resulting entity is an Indian company
- Need to relax the above condition
- Would encourage cross border mergers & acquisitions

# Mergers & Acquisitions

## Provisions relating to carry forward and set off

- Section 72A provides for carry forward and set off of accumulated loss and unabsorbed depreciation allowance to certain specified categories of industries
- Amendment should be brought for granting the above benefit to all sectors/industries
- Direct Tax Code has clarified the above and hence an amendment could be introduced

## MAT credit

- Section 115JAA provides for credit to the same company
- MAT credit of amalgamating company could be allowed to the amalgamated company
- Would provide certainty in case of amalgamations

# Transfer pricing

# General

# Transfer Pricing

## **Cost allocation/ cost contribution arrangements**

- Costs incurred by regional/ centralised cost centres allocated to various group members worldwide need to be benchmarked in accordance with the having regard to the arm's length price (ALP)
- No specific guidelines presently available to benchmark such transactions
- More clarity needed from CBDT with respect to benchmarking of cost allocation/ cost contribution arrangements

## **Meaning of Associated Enterprise (AE)**

- Existing 'deemed' definition of the term AE very wide
- Deeming provisions not in tune with either OECD or UN Convention
- Provisions of sub-section 2(c), (d), (g), (h), (i) and (m) of section 92A need to be dropped
- Would benefit taxpayers at large, particularly Banks/ FI's

## **Benchmarking of intangibles**

- Method selection – none of the prescribed methods generally apply
- Taking cognizance of internationally recognized methods, appropriate methodology to benchmark such transactions be introduced

# Transfer Pricing

## Inter-quartile range

- Existing regulations provide for use of arithmetic mean
- Provision be amended to allow use of arm's length range/ inter-quartile price range as opposed to arithmetic mean – To be in line with other matured jurisdictions
- Will create a greater certainty for taxpayers/ reduce significant administrative/ compliance burden

## Correlative adjustments

- Existing provision prohibits domestic correlative adjustments
- Such prohibition results in economic double taxation and hardship to the taxpayers
- It is suggested that the second proviso to section 92C(4) be dropped so as to permit necessary correlative adjustments

## Due date for filing accountant's report

- Under existing regulations, accountant's report required to be furnished by 30th September
- Data for all the comparable companies not available by 30th September - resulting in only a partial updation of documentation report
- Due date of filing tax returns for cases covered under transfer pricing regulations be extended to 31st December to address above issue

# Transfer Pricing

## Loss making comparables

- Tax authorities generally remove loss making companies from the comparables set during assessment – Emphasis on profitability as against functional comparability
- Suitable guidance be provided under Rule 10B to permit exclusion of loss making comparables only in exceptional cases
- Will help to address situations such as start up phase, businesses operating at low capacity, unusual circumstances etc.

## Multiple year data

- Tax authorities rejecting claim of the taxpayers relating to use of multiple year data
- Such prohibition results in hardship to the taxpayers
- Rule 10B(4) be amended to provide for use data relating to the previous two years

## Contemporaneous documentation

- Taxpayers undertake search on the databases updated as of 30th September to ensure 'contemporaneous' documentation
- However, tax authorities insisting on performing fresh search on the databases at the time of assessment – resulting into litigation on interpretation of word 'contemporaneous'
- Necessary amendments be proposed to provide that tax authorities should use same data as was available to the taxpayer at the time of preparing documentation

# Transfer Pricing

## Comparability adjustments

- Existing regulations provide for making adjustments for differences between the controlled transaction and uncontrolled transaction
- No guidance/ clarity on the manner in which these adjustments are to be made
- Appropriate guidance would go a long way in alleviating taxpayer burden

## Use of secret comparables

- Tax authorities exercising their powers under section 133(6) to gather comparable data
- Such information do not form part of the public domain and tantamount to use of secret comparables by the tax authorities
- Regulations be appropriately amended to the effect that confidential information not available in the public domain, should not be used for computing ALP

## Use of foreign database

- No provision in the existing legislation
- Tax authorities reluctant in accepting the use of such foreign databases
- Legislation need to be amended to provide for use of foreign databases in case overseas group entity is considered as a tested party

## Attribution of profits to PE

- No rules prescribed under the Act for attribution of profits to PE
- Necessary clarity on attribution of profits to PE – CBDT needs to clarity on how PE should correctly capture its economic substance, so that profits attributable to PE are in sync with its FAR

# Dispute resolution panel

# Transfer Pricing - Dispute Resolution Panel

## Applicability to orders passed before 1 October 2009

- DRP provisions get triggered in respect of draft orders passed by AO on or after 1 October 2009
- It is not clear whether taxpayers have option to refer cases to DRP, in respect of orders passed before 1 October, 2009 (in view of the Supreme Court decision in the case of HCL Technologies)
- Necessary clarification to be issued to avoid litigation and to remove uncertainty

# Indirect taxes

# Service tax

# Service Tax

## **Refund of ST paid on ‘Input Services’**

- In case of refund of service tax paid by the exporters on input services, authorities consider only those “Input Services” which have a direct co-relation with the output services
- Such a stand is not in accordance with the intent of Law. It is suggested that a suitable clarification be issued
- Alternatively, the word “Input Services” be defined in an exhaustive manner

## **Refund of Service Tax paid on Input Services -Circular no. 828 dated 20th April 2006**

- Practically, as per this Circular, 80% of the amount of refund is not being sanctioned on ad-hoc basis to the provider of taxable services on the reasoning that service provider is not entitled for ad-hoc refund under this Circular
- The language of the Circular does not differentiate between the manufacturer and service provider
- Wide publicity be given to the Circular so that service providers can enjoy a level playing field
- It would help the exporters in terms of cash flow issues and the exporters would be able to price the services competitively.

# Service Tax

## Service Tax on “Supply of Tangible Goods”

- ST is levied on “services provided in relation to supply of tangible goods without transferring right of possession and effective control”
- The legal aspect of ‘transferring the right to use’ involving possession and effective control is interpreted loosely under the State VAT laws with the result that VAT is attracted on all transfers whether involving transfer of the possession/ effective control or not
- In present scenario, Service Tax is getting attracted even when VAT is paid
- Govt. should introduce some clarification to avoid unwarranted litigation on double taxation

## Information Technology Software Services

- Transactions involving right to use of software are taxable under the Service Tax law as well as VAT Laws
- There is dual taxation on the software’s under Service Tax law and VAT laws
- is suggested that lacuna should be resolved by modifications in the definition of taxable service under Service Tax law, so as to make distinction between software as service and software as goods

# Service Tax

## **Import of Services – Adjustment of ST liability against accumulated balance of Cenvat credit**

- CCR's provide that Cenvat credit can inter-alia be adjusted by the output service provider against the ST liability
- Section 66A, deems the recipient of services as the provider of services
- However, service recipient is not allowed to adjust the service tax liability against the accumulated balance of Cenvat credit, in view of Rule 5 of Import of service rules
- Section 66A deems the recipient of services as 'provider of output services' whereas Rule 5 provides otherwise
- It is suggested that the anomaly existing since April, 2006 should be corrected

## **Service Tax on consideration received in advance**

- ST is levied on payments received in advance.
- Rule 3(1) of CCR provides that a provider of taxable service can take the Cenvat credit of the ST paid on any input service received
- In advance payment, Cenvat credit cannot be availed as input service is not received, against which Cenvat credit can be availed
- CCR should be amended and the words received or 'to be received' should be inserted, especially in Rule 3 of CCR

# Service Tax

## Utilization of Cenvat credit in transactions between Associated Enterprises (AE)

- In case of transactions between AE, ST is payable at the time of payment/receipt or accrual basis, whichever is earlier
- As per Rule 4(7) of CCR, Cenvat credit would be allowed on or after the day on which payment of input service is made
- Eventually, for AE's this results in payment of ST at the time of accounting for the transaction but the credit for the same is not available to the service recipient
- It is suggested that Rule 4(7) may be suitably amended to allow the service recipient to take credit of service tax paid even where the value of input service is not made
- Alternatively, provision requiring payment of service tax on booking of transaction may be amended/deleted, to bring it at par with other provisions

## Information Technology Software Service - Right to use for 'Commercial Exploitation'

- ST is levied on providing the right to use information technology software for commercial exploitation
- The word 'commercial exploitation' has not been defined in ST law, which leads to various interpretations
- It is recommended that word 'commercial exploitation', should be defined, so that the objective of the levy on such transactions can be better appreciated

# Service Tax

## **Exemption to Services not consumed wholly within the SEZ**

- Services wholly consumed within SEZ enjoy exemption from ST
- ST paid on services not wholly consumed within SEZ can be claimed back as refund by the unit in SEZ as per Notification No. 9/2009-Service Tax
- The process of payment of Service Tax and then taking refund involves considerable period of time, unnecessary blockage of business money for a long time
- First discussion paper on GST hints at extending the benefits similar to 'zero rating', to supplies in SEZ
- It is recommended that the refund process be expedited so that the money can be used for the genuine business purposes

## **Exemption on Provision of Services to EOUs**

- EOUs have to pay ST on taxable services and then Cenvat credit of the Service Tax paid can be taken
- The process of claiming the refund involves a long period of time and many a times become a cash flow issue
- It is suggested that the Govt. machinery should be geared up for handling the refund claims in an expeditious manner

# Service Tax

## **ST on Taxable Output Services – Adjustment against ADC**

- Manufacturers are allowed to set off ADC against excise duty liability
- Cenvat credit of ADC is not allowed to be taken by the service provider for being set off against the output service tax liability
- The provider of taxable services does not enjoy the level playing field in terms of availment of credit of ADC
- It is suggested that Rule 3 of CCR should be amended accordingly to extend the benefit in form of availment of credit of ADC by a service provider

## **Service Tax -“Club or Association Services”**

- Industry Chambers seek to promote interest of trade and Industry. The basic purposes of the chambers are not to earn profit but a liaison between the foreign companies and the Indian Government
- It is proposed, that like the exempted list of associations and export councils, Industry chambers should also be exempted from payment of Service Tax

# Service Tax

## **Cross border transactions of taxable services between a company and its branch**

- On import of services by branch from its parent company (situated outside India) and vice-versa, branch and parent company are considered as separate persons under the Section 66A
- For Export of services, there is no specific clarification on the identity of the branch and parent company as two separate entities
- In view of the branch and the parent company being treated as separate entities, the recipient of taxable services is required to pay ST on import of taxable services
- However, in case of Export of Services, an Indian entity providing taxable services to its branch situated outside India or vice-versa is not considered as a separate entity. Resultantly, the transaction is not treated as one for taxable service. In such a scenario, the output service provider is not able to get the refund of duty/tax paid on inputs/input services, if any
- It is suggested that the provisions of imports/exports are harmonized to take care of this issue

## **Services between Associated Enterprises – Export of Services**

- In cases where services are provided to associated enterprises, amount for provision of services is deemed to be received on the day when the accounting entry for the same is passed. Accordingly, there is no evidence for receipt in convertible foreign exchange on the date when the amount is deemed to be received
- In view of the fact that there is no provision under Export of Services Rules, prescribing time limit within which foreign exchange could be received, the benefit of export of services is being denied on the date when the entry is passed in the books of account
- In order to rectify this situation, a suitable amendment is required under Export of Services Rules, 2005., The proposed amendment would ensure that the benefit of export of services can be enjoyed by genuine service exporters

# Service Tax

## **Services provided outside India in pursuance of transactions between two Indian parties**

- In view of the fact that the transaction is between two Indian parties where consideration is not paid in convertible foreign exchange, the said services are being subject to service tax as the same do not fulfill the conditions under Export of Services Rules, 2005
- The fact that the Export of Services Rules specifies the situations in which services amount to export of services, the important aspect of place of performance of services and the jurisdiction for levy of service tax is completely ignored. Payment / demand of service tax on such services goes beyond the scope of services as the services are in no way be regarded as provided in India
- Specific provision needs to be inserted in Service Tax law clarifying that services provided outside India are outside the scope of Service Tax irrespective of the provisions of Export of Services Rules, 2005

## **Admissibility of Cenvat Credit on common input services under Rule 6 (5) of the CCR**

- The list of services on which full credit is admissible even though the same are used in provision of taxable and exempt services has not undergone a single revision since 2004
- The list under Rule 6(5) of the CCR, needs a revision in view of the various categories of taxable services introduced over the last five years as these services are common input services and segregation of the same based on consumption in taxable / exempt services is virtually not possible
- The list under Rule 6 (5) needs to be amended to include services falling under Support Services of Business or Commerce, Renting of Immovable Property Services, Information Technology Software Services

# Excise Duty

# Excise Duty

## **Abatement on BCD- Notification No. 10/2008-CE**

- On Clearance of goods from EOU's to DTA; the purchaser in DTA is required to pay BCD @ 50% of normal duty rate + CVD+ ADC
- Notification No. 23/2003-CE provided for exemption from BCD to the extent of 75%. Vide Notification No. 10/2008 abatement has been reduced to 50%
- It is suggested that the Government should withdraw Notification No 10/2008 and continue with the earlier abatement Notification No. 23/2003-CE

## **Excise Duty on 'Packaged Drinking Water' under Chapter Heading 2201**

- Excise duty on packaged drinking water, presently, is levied @8%
- Due to health awareness and augmented disposable earnings, packaged drinking water has become necessity for common man
- Rate of excise duty be scrapped on 'Packaged Drinking Water'. Alternatively, it should be kept @ 4%
- Under GST scenario, Govt. may consider categorising 'Packaged Drinking Water' under the list of goods attracting comparatively lower rate of tax

## **Exemption from Excise Duty on Customized Software**

- Notification No. 6/2006-CE provides exemption to Customized Software from excise duty
- In cases where customization is done on pre-existing software, the authorities do not treat the software as Customized Software so as to become eligible to claim exemption from payment of excise duty
- Necessary clarification should be issued expounding that benefit of exemption is not denied in cases where the process of customization results into software, totally distinguishable from the original software

# Customs Duty

# Customs Duty

## **Medical Equipment under Customs Tariff Heading (CTH) 85238020 and 85238090**

- CTH 85238020 covers “IT Software” leviable to customs duty @ 8.24%
- CTH 85238090 is a residuary classification and covers “Other software” which attracts customs duty @ 24.42%
- Authorities are currently classifying the software meant to be used in medical equipments under CTH 85238090 levying Customs duty @ 24.42%
- Suitable modifications in the tariff should be done to classify medical software as IT software

## **Medical Equipments under Customs Tariff Heading 90**

- BCD on most of the medical equipments is levied @ 7.5%
- The customer base has amplified in the recent past creating opportunities for prospective and existing players in the market
- BCD on medical equipments should be brought down to a lower rate
- Alternatively abatement or an exemption should be provided to medical industry

## **Solar Power Plants**

- Government incentives for solar power plants have shifted the focus of many companies towards setting up of Solar Photo Voltaic units in India
- More than 60% of Solar PV cells produced have been exported and this will increase in forthcoming years. The industry is facing issues like availability of technology, research labs etc.
- Government should introduce some incentive schemes, which would give a boost to the industry
- Steps could be taken to procure duty free import of the required materials, equipments etc.

# VAT / GST

# VAT/CST

## Processed food

- Fruit juice and Fruit based drinks are taxed at different rates
- Few states are charging VAT rate of 12.5% and others are charging it at 4%
- This anomaly of different tax rates should be brought on the same level to bring parity among states

## Cement

- Cement is taxable at 12.5%
- Steel, iron and coke have been decided as “Declared goods”. Cement also deserves to be specified as declared good
- Cement should be specified as “Declared Good” so as to attract lower rate of CST/VAT

## Oil and Gas

- Natural Gas is taxable @ 12.5%
- Crude and Coal enjoy Declared goods status i.e. state taxes are levied to the maximum of 4%
- Natural Gas Should also be provided with the “Declared Goods Status”

# Glossary

<b>ADC</b>	Additional Duty of Customs under section 3(5) of CTA	<b>LLP</b>	Limited Liability Partnership
<b>AE</b>	Associated Enterprise	<b>MAT</b>	Minimum Alternative Tax
<b>AO</b>	Assessing Officer	<b>PE</b>	Permanent Establishment
<b>BCD</b>	Basic Customs Duty	<b>SEBI</b>	Securities Exchange Board of India
<b>CCR</b>	Cenvat Credit Rules, 2004	<b>SEZ</b>	Special Economic Zone
<b>CST</b>	Central Sales Tax	<b>ST</b>	Service Tax
<b>CTH</b>	Customs Tariff Heading	<b>STPI</b>	Software Technology Park of India
<b>CVD</b>	Countervailing Duty	<b>VAT</b>	Value Added Tax
<b>DDT</b>	Dividend Distribution Tax		
<b>DRP</b>	Dispute Resolution Panel		
<b>DTA</b>	Domestic Tariff Area		
<b>EOU</b>	Export Oriented Unit		
<b>FTS</b>	Fees for Technical Services		
<b>GST</b>	Goods and Services Tax		
<b>ITSS</b>	Information Technology Software Services		
<b>LLC</b>	Limited Liability Company		



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