

# Budget Amendments 2013

## Service Tax

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## Meaning of Budget

- The word Budget was derived from the French word, bougette, which in turn is a diminutive of bouge, meaning a leather bag



## What the FM Said..

- “Kalangathu Kanda  
Vinaikkan Thulangathu  
Thookkang Kadinthu  
Seyal”
- What clearly eye discerns  
as right, with steadfast  
will  
and mind unslumbering,  
that should man fulfil  
- Saint Tiruvalluvar



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## Key Features - Budget

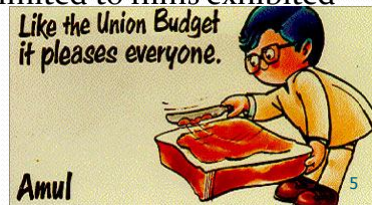
- Proposals on Direct  
Tax – Rs.13,300 Cr
- Proposals on  
Indirect Tax –  
Rs.4,700 Cr
- GST – CST  
Compensation –  
Rs.9,000 Cr



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## Key Features – Service Tax

- Maintain stability in tax regime.
- Negative List
  - Vocational courses offered by institutes affiliated to the State Council of Vocational Training
  - Testing activities in relation to agricultural produce
- Exemption
  - Copyright on cinematography limited to films exhibited in cinema halls.
  - Air conditioned restaurant.



## Key Features – Service Tax

- Homes and Flats
- Carpet area of 2,000 sq.ft. or more or
- Calue of 1 crore or more
- Rate of abatement
  - Reduced from from 75 to 70 percent.



## Key Features – Service Tax

- ‘Voluntary Compliance Encouragement Scheme’
- Non-Filers & Stop Filers
- Defaulters
- Period



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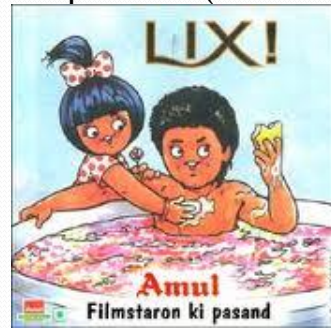
## Legislative Changes –Ve List

- Approved Vocational Course –
  - Include Courses run by: - Clause (i)
  - Industrial Training Institute
  - ITI affiliated to State Council for Vocational Training
- Exclude Courses run by: - Clause (iii)
- Institute affiliated to National Skill Development Corporation
- Relevant Section: S.65B(11)(i) & (iii)

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## Legislative Changes –Ve List

- Process Amounting to Manufacture or Production
- Expanded to Include:
  - Process under Medicinal & Toilet Preparation (Excise Duty) Act, 1955
- Relevant Section: 65B(40)



## Legislative Changes –Ve List

- Agriculture
- Word 'Seed' deleted:
- Effect of deletion:
  - Before – Only Seed Testing
  - Now – Testing in relation to Agriculture or Agricultural Produce
- Relevant Section: 66D(d)(i)

## Legislative Changes - Demand

- Demand made for – Extended Period
- Held to be not sustainable
- Then Demand Determinable for Normal Period
- Relevant Section: S. 73
- Amendment by way of: Insertion of Sub Sec.(2A)

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## Legislative Changes - Demand

- Sub Section 73(2A)
- Any appellate authority or Tribunal or Court
- Concludes that the SCN not sustainable for the reason that the charge of,—
  - (a) fraud; or
  - (b) collusion; or
  - (c) wilful misstatement; or
  - (d) suppression of facts; or
  - (e) contravention of provisions or rules made thereunder with intent to evade payment of service tax,



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## Legislative Changes - Demand

- Has not been established
- The Central Excise Officer shall determine the service tax payable
- For the period of eighteen months,
- As if the notice was issued for the offences for which limitation of eighteen months applies under sub-section (1).”;
- S.11A(9) of CEA, 44
- CCE V. Alcobex Metals, 2003 (153) ELT 241 (SC)

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## Legislative Changes - Penalty

- Penalty for Non Registration
- After Amendment – Restricted to Rs.10,000
- Before Amendment – Extend to Rs.10,000 or Rs.200 per day, which ever is higher – Lacuna Plugged



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## Legislative Changes - Penalty

- New Section Inserted – S.78A
- Imposes Penalty on:
  - Directors
  - Officials of Company
  - Specified Offences
  - Willful Action

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## Legislative Changes – S.78A

- Company has committed any of the following contraventions, namely:—
  - (a) evasion of service tax; or
  - (b) issuance of invoice, bill or, challan without provision of taxable service
  - (c) availment and utilisation of Cenvat without actual receipt of taxable service or excisable goods
  - (d) failure to pay ST to CG beyond a period of 6 m from date on which such payment becomes due,

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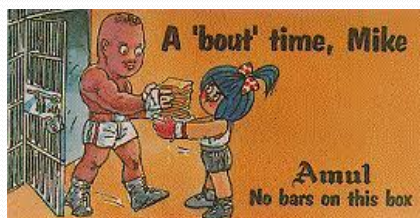
## Legislative Changes – S.78A

- Any director,
- Any manager,
- Any secretary or
- Other officer of such company,
- who at the time of such contravention
- was in charge of, and was responsible to, the company for the conduct of business of such company and
- was knowingly concerned with such contravention, shall be liable to a penalty which may extend to one lakh rupees.”;

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## Legislative Changes – Offences

- Offences & Punishment - Listed U/s 89
- Punishment Revised
- Makes certain offences Cognizable
- Other offences Non-Cognizable & Bailable
- Policy wing of Board to issue detailed instruction
- Amendment: S.89(i) & (ii)



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## Legislative Changes – Offences

- Offences U/s 89:
  - (a) knowingly evades the payment of service tax
  - (b) avails and utilises Cenvat without actual receipt of taxable service or excisable goods
  - (c) maintains false books of account or fails to supply any information which he is required to supply under this Chapter or the rules made thereunder or supplies false information; or
  - (d) collects ST but fails to pay to CG beyond 6 m from the date on which such payment becomes due,

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## Legislative Changes – Offences

- Punishment Before Amendment:
  - Offence > Rs. 50L
    - Upto 3 yrs imprisonment
  - Offence < Rs.50L
    - Upto 1 yr imprisonment
- Second & Subsequent conviction
  - Upto 3 yrs imprisonment



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## Legislative Changes – Offences

- Punishment After Amendment:
- For offences U/c (a), (b), (c) – Clause(i)
  - Offence > Rs. 50L
  - Upto 3 yrs imprisonment
- For offence U/c (d) – Clause(ii)
  - Offence > Rs.50L
  - Upto 7 yrs imprisonment
- For any other offence – Clause(iii)
  - I.e. Offence < Rs.50L
  - Upto 1 yr imprisonment

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## Legislative Changes – Offences

- Second & Subsequent Offence:
  - Clause (i) & (iii)
  - Imprisonment Upto 3 yrs
- Clause (ii)
- Imprisonment Upto 7 yrs

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## Legislative Changes – Cognizable Offences

- New Section Inserted – S. 90
- Bifurcates offences - Cognizable & Non Cognizable Offences
- Offence U/s 89(1)(ii) – Cognizable Offence
- All other offences – Non Cognizable
- Power of Arrest
- Authorization
- Who can arrest

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## Voluntary Compliance Encouragement Scheme, 2013

- What the H'ble FM Said:
- Nearly 17,00,000 registered assesseees under service tax,
- Only about 7,00,000 file returns.
- Many have simply stopped filing returns.
- We cannot go after each of them.
- I have to motivate them to file returns and pay the tax dues.
- Hence, I propose to introduce a one-time scheme called 'Voluntary Compliance Encouragement Scheme'.

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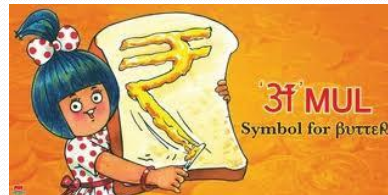
## Voluntary Compliance Encouragement Scheme, 2013

- What the H'ble FM Said:
- A defaulter may avail of the scheme on condition that
- He files a truthful declaration of service tax dues since 1.10.2007
- Makes payment in one or two installments before prescribed dates.
- In such a case, interest, penalty and other consequences will be waived.
- I hope to entice a large number of assesseees to return to the tax fold.
- I also hope to collect a reasonable sum of money

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## Voluntary Compliance Encouragement Scheme, 2013

- Applicability & In applicability of the scheme
- Period
- Due Date
- Payment with interest
- Payment without interest
- On payment
  - Immunity from interest, penalty & other proceedings
- ST, Int, Penalty & Proceedings after period?



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## Voluntary Compliance Encouragement Scheme, 2013

- Declarant - A person who makes declaration U/s 97(1) of FA (Bill), 2013
- Designated Authority - Not below AC, as notified by Commissioner
- Tax Dues - Tax due U/s 72, 73 and 73A
  - No Notice issued
  - Order of determination issued
- Period - 1.10.07 to 31.12.12
- Not paid as on 1.1.13

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## Voluntary Compliance Encouragement Scheme, 2013

- What if furnished return U/s 70
- Disclosed true liability, but
- Not paid the disclosed amount of ST
- Whether eligible to make declaration for the period covered by the said return?
- Proviso to S.96 of FA (Bill), 2013

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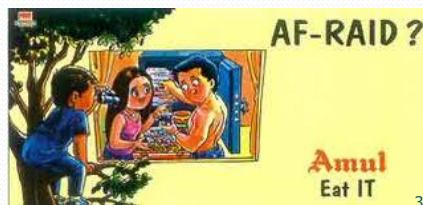
## Voluntary Compliance Encouragement Scheme, 2013

- What if:
  - (a) an inquiry or investigation in respect of a ST not levied or not paid or short-levied or short-paid has been initiated by way of —
    - (i) search of premises or
    - (ii) issuance of summons or
    - (iii) requiring production of accounts, documents or other or
  - (b) an audit has been initiated,
- Whether above persons can apply?

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## Voluntary Compliance Encouragement Scheme, 2013

- Pending as on 1.1.13
- Designated Authority
- By Order
- For Reasons to be recorded in writing
- Reject such applications



## Voluntary Compliance Encouragement Scheme, 2013

- Method of payment:
- Upto 50% of ST – On or before 31.12.13
- (A) - Balance 50% of ST – On or before 30.6.14 or
  - Without Interest
- (B) - Balance 50% of ST – On or before 31.12.12
  - With interest
  - Period of Interest
  - Interest rate

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## Voluntary Compliance Encouragement Scheme, 2013

- Acknowledgement of Discharge
- Immunity from Interest or Any other proceedings
- Conclusiveness of Declaration
- Reopening of proceedings
- Relating to period covered under declaration
- If Declaration not liable to be made and amount paid wrongly – whether refundable ?

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## Voluntary Compliance Encouragement Scheme, 2013

- What if declaration amount not paid?
- Whether penalty can be imposed & other proceedings can be initiated?
- Method of recovery?

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## Voluntary Compliance Encouragement Scheme, 2013

- What if declaration Substantially False?
- When can SCN be issued?
- Effect of SCN issued?

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## Advance Ruling

- Benefit extended to resident public limited companies.
- Notification No.4/13 ST dt.1.3.13
- Public Limited Co – S.3(1)(iv) of Companies Act, 1956
- Resident – 2(42) of IT Act, 1961

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## Exemption

- Effective from 1.4.13
- Exemption by way of:
  - auxiliary educational services and
  - renting of immovable property
- by (and not to)
- Specified educational institutes under S. No 9
- will not be available;

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## Exemption

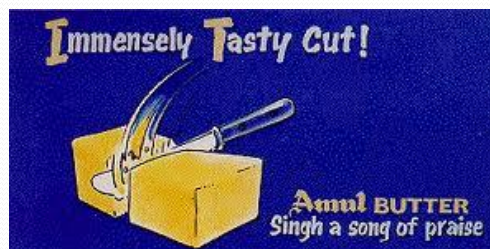
- Exemption under S. No 15 of 25/12 ST relating to:
- Copyrights for cinematograph films will now be available only to films exhibited in a cinema hall or theatre.
- Effect:
  - This will allow service providers to pass on input tax credits to taxable end-users;

Board Circular No. 334/3/2013 TRU dt.28.2.13

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## Exemption

- Exemption under S. No 19 now available only to:
- Non air-conditioned, (non-centrally air-heated) restaurants;
- Dual requirement earlier relating to
- License to serve alcohol - done away with;



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## Exemption

- Services provided in relation to serving of food or beverages by
  - A restaurant, eating joint or a mess,
  - Other than those having facility of
  - Air conditioning or central air-heating in any part of the establishment,
  - At any time during the year
    - Effect?

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## Exemption

- Exemptions to transportation of goods by railway and vessel under S. No 20 and services provided by (GTA) under S. No.21 - harmonized.
- Thus exemption to transportation of :
  - petroleum and petroleum products,
  - postal mails or mail bags and
  - household effects
  - by railways and vessels will not be available
    - Items (a), (d) & (e) omitted from S. No.20

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## Exemption

- Benefit of transportation of:
  - agricultural produce,
  - foodstuffs,
  - relief materials for specified purposes,
  - chemical fertilizers and oilcakes,
  - registered newspapers or magazines and
  - defence equipments
- will be available to GTAs;
  - New entry No.21 substituted

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## Exemption

- The exemptions under S. No 24 for vehicle parking to general public and S. No 25 for repair or maintenance of government aircrafts are being withdrawn
- Entry No. 24 omitted
- Entry No. 25 – words ‘or an aircraft omitted’



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## Exemption

- Definition of “charitable activities” changed
- Sub-clause (v) of clause (k) of Para 2 - Deleted.
- Effect:
- Benefit to charities providing services for advancement of “any other object of general public utility” up to Rs 25 Lakh will not be available

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## Abatement

- S. No 12 of Notification 26/2012-ST 20.6.12 amended
- Abatement for Construction of a complex, building, civil structures etc
- (A) For residential unit having carpet area upto 2,000 sq feet or where amount charged is less than Rs. 1 Cr
  - 25%
- Other than (A) above
  - 30%
- Other conditions remaining same

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# Thank You



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