



Indian Industries Association

(An Apex Body of Micro, Small & medium Enterprises)

IIA Bhawan, Vibhuti Khand, Phase II, Gomti Nagar, Lucknow – 226010

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Ref. 124/7785

11th June 09

Shri Pranab Mukherjee
Hon'ble Finance Minister
Govt. of India
Room No. 134 North Block
New Delhi

Subject: Union Budget Proposal (2009-10)

Sir,

IIA is an apex body of MSME. Through detailed discussions with the experts and feedback from our more than 700 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 their Budget Proposals for upliftment of this vital sector of the Indian Economy. For doing so, we propose that you may invite Presidents of the member associations of the National Board of MSME constituted by Ministry of MSME, Government of India.

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

Thank you.

Yours truly,

Parveen Sadana
President



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Budget Proposal 2009-10

1- INCOME TAX

Additional Depreciation/Investment Allowance/ Standard Deduction to MSME

In order to promote more investment for up gradation and modernization, it is required that manufacturing units in MSME Sector should either be given Additional Depreciation/Investment Allowance on their fixed capital investments OR they should be given some Standard Deduction under chapter VI-A from their Gross Total Income. Any of these measures would help lower effective rate of tax on MSMEs and will help more cash accrual/retention which will help these units to plough back profits generated for capacity expansion/modernization/technology up gradation. Needless to mention that MSMEs are one of the largest employment provider in the economy and any investments therein will benefit the country at large.

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.

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

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 not only be available against future profits. Belated returns filed U/S 139(4) should also be allowed to be revised.

Income Tax relief for setting up industries in backward areas

The Income tax relief should be allowed for setting up industries in backward areas of U.P without any discrimination as being done in case of many neighboring states e.g. Uttrakhand and HP

Individual Threshold Limit

The basic exemption limit for Income Tax should be raised to Rs. 2.5 lacs in the case of individuals. For women, it should be Rs. 3 lacs and for senior citizens it should be Rs. 3.5 lacs. The maximum rate of Income tax for individuals should be brought down to 25%. Surcharge in the case of Individuals having income above Rs. 10 Lacs should be abolished, as on one hand it is a



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deterrent in declaring higher income while on the other hand it is Discriminatory. On similar lines, the Tax rates for Companies & Firms should also be brought down to 25%.

Special Deduction for MF / Equity

A special deduction from total income in case of investment in MF/Equity of specified nature with limit of Rs. 50,000/Rs. 100,000 should be allowed as it will give a boost to the capital market by raising the inflow of capital in secondary market.

Application under Section 154

Application under Section 154 should be allowed to be filed electronically

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

U/S 40A(3), the limit should be raised to at least Rs. 1 lac from the present Rs. 20,000 which was fixed long time back.

Limited Liability Partnership (LLP)

Recently an act allowing establishment of entities as LLP has been passed. The law to tax income of such entities will go a long way in promoting the formation of LLPs. There should, therefore, be a proper taxation system / structure / rates i.e:

- Separate definition of LLP in definition of person in section 2 of Income Tax Act 1961.
- Salary being paid to the working partners in accordance with the LLP Agreement should be allowed as a deduction in the hands of Limited Liability Partnership. There should be no disallowance in respect of salary to partners of a Limited Liability Partnership.
- Salary paid to partners and allowed in the hands of the Limited Liability Partnership should be made taxable in the hands of partners as per the limited liability partnership agreement as profits and gains from business or profession.
- The interest paid to partners, if so permitted by the LLP Agreement on the capital contributed by the partners should be allowed to the LLP only to the extent of 12% similar to that of partnership firms. Such interest paid to the partners of the limited liability partnership should be subject to tax in the hands of the partners as profits and gains of business or profession.
- The amount of profits credited to the accounts of partners would be subject to tax in the hands of the partners. The amount of profits, if any, accumulated by the “limited liability partnership” without being distributed to the partners and carried to its reserve etc. should be subject to tax in the hand of the “limited liability partnership” itself. The LLP will be essentially a pass through entity

TDS Provisions:

- TDS amounts should be allowed to be adjusted in any of the Assessment Years up to 3 years following the year of issue of certificate. This will take care of the genuine problems of delay in receipt of TDS Certificates especially from Government Departments and will provide convenience to assesseees to get it adjusted in any of the following 3 years also.



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- 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 194C for payment to contractors in case of individual contract be raised to Rs.50.000/- and aggregate contract in a year be raised to Rs. 2,50,000.
- Threshold limit u/s 194H for payment of commission & brokerage be raised to Rs. 50,000. against the present limit of Rs. 2,500/- 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. 20,000/-
- Under the new procedures for TDS returns, filling TDS return through internet is compulsory as long as you have TAN . There is no provision to surrender TAN. Quarterly statements and Annual returns are to be filed compulsorily. As such this compulsion also applies to those whose businesses are closed or do not have any income. Therefore a system of surrendering TAN should be introduced and frequency for nil Statements and return should be made annual.
- System of UTN as proposed should be introduced with prospective effect and not retrospective. It is also suggested that the proposal should be run on a pilot basis for a select group of assesses before a full fledged launch/introduction to all assesses.
- 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.
- Disallowance of expenses on account of non deduction of TDS is unjustified and irrational. Alternatively no disallowance under this section should be made if TDS have been deposited before the due date of filing the return as in case of Section 43-B.

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.

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 fag 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 20000/ from the present value of Rs 5000/-.

Fringe Benefit Tax



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As far as Micro & SSI sector is concerned, we are sure Govt. will be incurring more administration cost compared to realization of FBT from this sector. Moreover everybody concerned in the government and outside realizes that Micro & SSI entrepreneur is overloaded with plethora of routine formalities to take care of in order to sustain and survive, adding one more set of dead lines and return is the last thing advisable. Micro & SSI entrepreneur is “All in one Manger”, hence adding more fruitless formalities on his head is not in the National interest. Therefore MSME Sector must be absolutely taken out from the ambit of FBT

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

Compulsory Audit

Under Sec 44AB of Income Tax Act, 1961, if the Gross T.O. of assesses is Rs.40 Lacs and above, Audit is mandatory .This Limit was fixed long time back and should be enhanced to Rs. 2 Crores.

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.

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.

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 allowablity 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)

Section 2(22)(e) regarding deemed dividend should be abolished

- A concessional rate of tax can be imposed in case of deemed dividend under section 2(22)(e)
- Section 2(22)(e) must be appropriately amended so as to exempt those cases where there advance/loan is repaid during the same



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2- CENTRAL EXCISE

- **Exemption limit of Excise Duty must be minimum Rs. 2.50 Crores instead of Rs. 1.50 Crores.**
- The rate of Basic Central Excise Duty on some industrial solvents like MTO, Mixed Sylene etc. has not been reduced and still stands at 14%. Most SSI units who use these materials and are exempted from payment of Central Excise Duty, stand at huge loss. The CENVAT credit lost is 14% though the products manufactured attract a duty of 8% only. This has created an immediate competitive disadvantage vis a vis manufacturers who avail CENVAT credit. This anomaly has made some products in which the above mentioned products are used infeasible to manufacture.
- **Excise Duty on Zip Fasteners**
Zip fasteners are mainly used in the manufacture of readymade garments and Hosiery Products. All the inputs except Zip Fasteners used in the manufacture of Readymade Garments have been given the option of exemption from excise duty under the Notification no. 30/2004 - CE dated 09-07-2004 as amended by notification number 10/2005-CE dated 01-03-2005. The Inputs of the Zippers are also exempt under the same notifications.

In the view of the above it is proposed that Zip Fasteners (Tariff Item 96.07) should also be given option of exemption from excise duty.

3- SERVICE TAX

- a. The general rate of tax has been reduced from 12% to 10% w.e.f. 24-02-2009. To meet the challenges of global meltdown, the Government was pleased to reduce the rate of excise duty (in two phases) from 14% to 8%. Historically the rate of service tax has always been less than the Central rate of excise duty. Keeping this in view, we suggest that **the rate of service tax should be reduced from 10% to 5%.**
- b. **All kinds of surcharges and Cess should be merged with basic Service tax rates.**
- c. 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.
- d. Threshold for applicability of Service Tax should be enhanced from Rs 10 Lacs to 15 Lacs.
- e. Reverse charge on Goods transport Services should be abolished and should be levied on Service Providers as in case of all other services.
- f. 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.
- g. 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.



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h. Service tax payable under works contract category for compounding scheme should be brought down to 2 % from 4%.

i. **Credit of Service Tax by service providers of exempted as well as taxable services.**

Until March 2008, Rule 6(3) used to give an option to a provider of taxable as well as exempted services to utilize credit only to the extent of 20% of the tax on value of taxable output service. The said option has been withdrawn w.e.f. 01-04-2008. The said withdrawal is creating lot of difficulties for small service providers. Now even the small service provider has to under take the complicated exercise of computing proportionate credit. Under the erstwhile provisions, the essence of the provision was that the service provider should pay tax in cash at least to the extent of 80% amount of the tax on taxable service. The said amendment by Finance Bill 2008 is creating lot of difficulty for small service provider. One such example would be a case of trader providing commission agent services also. The law is not clear as to how the service provider can take credit on proportionate basis in such cases. We, therefore, suggest that the erstwhile provision of utilizing credit to the extent of 20% of the tax on taxable service should be re-stored.

Vide Govt Notification No. 3/2008-ST dated 19.02.2008 & 17/2008-ST dated 01.04.2008 for refund of Service Tax on Export Activities certain taxable services have been exempted from Service Tax with the condition that first the Service Tax will be charged on the services and then it would be refunded if claimed. This procedure of charging the Service Tax is causing serious problems in the exporters in general and small exporters in particular as their working capital is locked unnecessarily at the time when they are facing Global Financial Crises because of non-availability of adequate orders from abroad resulting in sharp declining in export business of Indian Handicrafts.

The procedure of refunding of the Service Tax is so complicated and time consuming that the locking of working capital of small exporters becomes unbearable. It is therefore proposed that following export services should be exempted from Service Tax;

- Foreign Courier
- Foreign Commission Agent
- Customs House Agent
- Terminal Handling Services at Port

Service Tax on Goods Transport Services

All MSME sector industries should be exempted from paying service tax on GTS and also thus having to needlessly get registered under service tax and file two half yearly returns per annum

Justification:

Reintroduction of Trade notice No 356/01/97-TRU Dtd. 6th.Feb.1998

Finance Bill 2004 reintroduced service tax on goods transport services by road.

Subsequently Notification No 43/97 dtd. 5.11.1997 was also reintroduced as Notification No 35/2004 dtd. 3.12.2004, by which seven categories of GTS availers are required to pay service tax.

On previous occasion, Mr. P. Chidambaram, who incidentally was the finance minister then had some very practical counsel, and realizing the plight that SSI entrepreneurs would have to undergo if provisions of Notification 43/97 was pressed on them, introduced trade notice No 356/01/97-



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TRU dtd. 6th.Feb.`1998, by which certain categories of industry / trading organizations from payment of service tax on GTS such as registered SSI and exclusively trading firms etc. were exempted from payment of service tax on GTS.

However, on this particular occasion, except the proprietorship concerns, all other class of service availers in trade and industry have to pay service tax on GTS, where as for the proprietorship firms, the transporters have to pay.

The peculiar aspect of this provision is that while all the seven entities covered under Not. No. 35/2004 have to obtain service tax registration, pay service tax and further file returns, the transporters are not spared of the same either, as they too have to collect some part of service tax and pay.

Now that nearly two years would be over and the system of having transporters to obtain service tax registration and pay tax and file return is in place, there is no justification of continuing with notification No 35/2004. It should logically be rescinded and the transporters alone should be made responsible for collection and payment of tax on services rendered by them.

However, if the finance ministry still sees merit in continuing with Not. No. 35/2004, then we strongly suggest reintroduction of Trade notice No 356/01/97-TRU Dtd. 6th.Feb.1998.

4- CST,VAT, CENVAT AND GST

a. CST

CST should be brought down to 1%.

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",



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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.

d. CENVAT

Amount Reversible under Rule 6(3) of Cenvat Credit Rules, 2004.

Rule 6(3) provides for reversal of credit when a manufacturer avails cenvat credit on common input/input services which are used for manufacture of dutiable as well as exempted final product. It provides for two alternative schemes. One for reversal on proportionate basis and the second is for reversal @ 10% of the value of exempted final products.

The rate of 10% had been fixed in 2004 when the Central rate of duty was 16%. The said rate was fixed keeping in view that on macro level, the manufacturer would have taken credit to extent of 10% of the value of exempted final products.

With the passage of time, the Central rate of duty has been reduced from 16% to 8% but the reversal required under Rule 6(3) of Cenvat Credit Rules, 2004 continues to be 10%. This chamber is of the strong view that there is absolutely no justification for maintaining the rate of reversal at 10%. The chamber suggests that the reversal under Rule 6(3) should be reduced to 5%, which would be proportionate to the 2004 status.

5- FLOW OF CREDIT TO MSME AND LENDING PRACTICES OF BANKS

Flow of adequate credit and its timely dispersal is not happening due to adverse risk perception of banks and Financial Institutions and lack of experience and expertise on part of entrepreneurs in submitting presentable proposals.

It is necessary to adopt a two pronged approach

- A) Increase in supply of funds to Micro and Small Enterprises (MSE's).
- B) Changes in existing practices of lending to Micro and Small Enterprises.

A) FLOW OF CREDIT

Increased supply will ensure keener competition in financial sector and perforce direct more flow of credit to SSI. Besides following steps may also be considered:-

- A. The Government can invite institutions/business houses to set up large fund based Bank with charter to finance MSE's. Lower CRR/SLR may be stipulated as incentive.
- B. Some SLR/CRR cuts in future may be made conditional for lending to MSE's or utilised for setting up specialised MSE's Banks.
- C. Risk capital also needs to be provided to MSE sector by innovative means;



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- D. Large companies may be mandated to set aside a part of their bill limits for payment of bills of MSE units. Late Payment Act should be provided teeth and the relief under the Act must be available to factoring companies to secure their interest. The Facilitation Council like the DRT Should be permitted to issue recovery certificate also in order to enforce their decision. It is observed that the provisions of the MSMED Act 2006 in this regard are not being implemented. As such the intention of the Govt to ease the financial problems of MSME is not fulfilled.
- E. RBI should issue only those circulars/directives which can be enforced.
- F. Credit Monitoring Mechanism

There should be a effective mechanism for monitoring flow of credit and for redressal of grievances. The present systems of SLIIC / SLBC / RBI Meetings is not effective.

B) CHANGES IN THE EXISTING LENDING PRACTICES:

1. The Bankers have to be sensitised through hard facts and mutual consultations that their risk perception about MSE sector vis-a-vis large sector is not in line with the realities. Their funds are safer with MSE if seen at macro level.
2. Major causes for defaults are not only lack of experience and expertise on part of the entrepreneurs, but also lack of adequate training in extending credit on part of bankers and insufficient interaction with borrowers and supervision of their accounts.
3. A detailed study can be commissioned through reputed agencies like to identify grey areas in lending and to recommend appropriate structure and system.
4. A Committee approach of sanctioning loans may be adopted like in case of large loans, this will result in
 - i. Faster decision making and
 - ii. Avoid hesitation on part of bankers due to personal responsibility in case of default.
5. Different levels in banking should be effectively empowered and Managers/Regional Managers made accountable for profits as also for acts of omissions.
6. As of now MSE is clubbed with other welfare programmes under priority lending. Neither credit disbursed nor bad debts are clearly known. Hence MSE may be treated as distinct entity.
7. The lease hold properties should be taken as collaterals by the bank. The village land should also be taken as security by the bank.
8. Industrial Associations should be involved at the time of finalising the loan to the entrepreneurs.

6- OTHER MISCELANEOUS 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. To explain the issue we are submitting a live example as under:



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“Textile sector provides mass employment in the rural sector of India across the country. They are supported by various buying programmes of Government including Defence and they have been catering to such requirement of Defence for the past two decades. Recently certain large composite mills have influenced defence officials at the Secretary level and got issued an order from them to purchase only from composite mills having facilities of spinning, weaving & Processing, which is very detrimental to the interest of Small Scale Industries.”

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) LABOUR LAWS

Provide for contractual services in SME avoiding stringent Labour laws by which generation of employment will be boosted and where the employee so opts, he can participate in voluntary labour welfare schemes as per his choice, without interference of employer.

(C) 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.

(D) MANUAL/ E-FILING OF PAPERS

Manual filing of papers/documents should be continued for few more years simultaneously with the option for e-filing, till faultless broadband connectivity with vast bandwidth, taxpayer awareness and comfort with e-filing process etc are satisfactorily achieved.

(E) GENERAL PRINCIPLES

Some general principles should be laid down to ensure uniformity, fiscal prudence and discipline in state budgets. Some states impose an “entry tax” on movement of goods into the state from another state. Revenue raising efforts on the part of some states through these types of taxes reflect a narrow and shortsighted approach. Free movement of goods and services across all states within the country should be encouraged as this would promote development of the nation as a whole. Each state should aim at increasing its revenue through growth of the size of the economy, rather than by raising input cost for industries through more and more types of taxes.