



**INDIAN INDUSTRIES ASSOCIATION**

AN APEX BODY OF MICRO, SMALL & MEDIUM ENTERPRISES



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

New Delhi

**Subject: Union Budget Proposal (2011-12)**

Sir,

IIA is an apex body of MSME. Through detailed discussions with the experts and feedback from our more than 7000 members we have drafted this Budget Proposal with specific reference to Micro, Small and Medium Scale Industries in the country for your kind consideration.

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

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

Thank you.

Yours truly,

**Anil Gupta**  
President



## Budget Proposal 2011-12

### 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.

## **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.
- 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. 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.
- 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.

### 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 department accounting purpose.

### 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/-.



## **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 allowability u/s 40(b) the AO is empowered to disallow the salary u/s 40-A(2B). If the salary of partner is paid within limit then the same should not be disallowable u/s 40-A(2B)

## 2- CENTRAL EXCISE

- Exemption limit of Excise Duty must be minimum Rs. 5 Crores instead of Rs. 1.50 Crores.

- **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.

- **Exemption of Helmets (Safety Head Gears falling under chapter 65.01 of the Excise Tariff) from levy of Central Excise Duty**

Safety Helmet is a life saving device being used by two-wheeler riders who generally belong to economically lower & middle segment of our society. Beyond Central Excise Duty applicable @ 10.3%, the item is also subjected to VAT @ 12.5% in many states.

The statistics prove that more than 1.5 lacs of precious life's are lost in the Indian roads because of road accidents & more than 50% of the accident victims are two-wheeler riders. The percentage of two-wheeler riders who are facing death on the Indian roads because of road accidents can definitely be reduced if riders are able to use & afford good quality Safety Helmets. Because of high cost of quality Helmets being produced in organised sector, more



than 80% of the riders are purchasing low quality Helmets being produced in the tiny sector which enjoys complete exemption from excise duty.

**If excise duty is removed, the good quality Helmet producers will be able to fight competition from road side manufacturers & two-wheeler rider shall definitely be safer on the Indian roads.**

It is felt that removal of excise duty & safety head gears will mean a very nominal loss of about 15 to 20 crores or less which must be collected currently in form of the said excise duty on all India basis. It will be worthwhile to be mention that more than 80% of the helmets being sold in the markets are substandard cheap quality Helmets being produced in the tiny sector which is not contributing any kind of revenue to the exchequer.

Usage of proper quality of helmets shall definitely decrease incidents of head injuries which will indirectly help the government exchequer. At the moment average cost of neuro surgery being incurred by the government is estimated as Rs. 5 lacs per surgery. Reduction in head injuries because of usage of proper quality Helmets by two-wheeler riders shall reduce the fatal accidents by 25 to 35% which accordingly shall mean reduction in treatment of such head injury patients.

### **3- SERVICE TAX**

- a. The general rate of tax has been reduced from 12% to 10% w.e.f. 24-02-2009. Historically the rate of service tax has always been less than the Central rate of excise duty. Keeping this in view, we suggests that **the rate of service tax should be reduced from 10% to 8%.**
- b. As per service tax notification no. 33/2004 dated 3rd dec 2004, there is no liability of service tax on transportation\_of Milk, Eggs, Vegetables. This list had been further extended to Pulses also subsequently. The criteria for exemption appears the perishable nature of foods products being transported. Bread also falls in the same category hence Service tax on transportation of Bread should be exempted.
- c. Service tax was levied on Industry Associations in 2005 by bracketing them under 'Club or Associations Services' (excluding trade unions, political parties, farmers associations). Industry associations like Farmers Association / Trade Unions work for the public cause and clubbing them with entertainment clubs is unjust and unfair. Hence the liability of Service Tax on Industry Association membership fee should be exempted.
- d. All kinds of surcharges and Cess should be merged with basic Service tax rates.





- e. 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.
- f. 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 need.**
- g. Reverse charge on Goods transport Services should be abolished and should be levied on Service Providers as in case of all other services.
- h. 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.
- i. 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.
- j. Service tax payable under works contract category for compounding scheme should be brought down to 2 % from 4%.
- k. **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.
- l. **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

#### **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",*

*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.

## 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:

“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.



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## (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.