



INDIA BUDGET,2010

Highlights

[Budget presented on 26th February'2010]

TIME FOR

TAXPAYERS

Doing common things, *Uncommonly well.*

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A Finance & Accounts outsourcing company

A. DIRECT TAX

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DIRECT TAX

1. Corporate tax



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Title	Section /Chapter	Changes proposed	Effective from
Surcharge on domestic companies reduced		<p>Surcharge on domestic companies, having total income of more than Rs. 1 crore, has been proposed to be reduced from 10% to 7.5%.</p> <p>Note:</p> <ol style="list-style-type: none"> No surcharge is applicable if total income is equal to or less than Rs. 1 crore. There is no change in surcharge on foreign companies which is 2.5% if total income exceeds Rs.1 crore. 	Assessment Year 2011-12
MAT rate increased	115JB (1)	<p>Basic rate of MAT has been proposed to be increased from 15% to 18%.</p> <p>The effective MAT rates of Domestic companies (after considering the reduction in surcharge rate) are as below:</p> <p>Total Income < Rs. 1 Crore 18.54% (15.45%)</p> <p>Total Income > Rs. 1 Crore 19.93% (16.99%)</p> <p>Note :Tax rates in bracket relates to A.Y. 2010-11</p>	Assessment Year 2011-12
Effective rate of Dividend Distribution Tax (DDT) stands reduced	115O	<p>As a result of reduction in the surcharge rate applicable to domestic companies, the effective DDT rate would get reduced from 16.99% to 16.61%.</p>	Assessment Year 2011-12

2. Exemptions/Deductions



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Title	Section	Changes Proposed	Effective From
Tax exemption to STPI & EOU Units etc.	10A & 10B	<ul style="list-style-type: none"> Extension issue of tax holiday period for STPI & EOU units did not find any mention in the Finance Bill,2010. Exemption under section 10A & 10B is allowed only up to Financial Year 2010-11 (Assessment Year 2011-12). 	Not applicable
SEZ units- clarification on computing tax holiday made applicable with retrospective effect	10AA	<ul style="list-style-type: none"> Tax holiday, originally introduced from A.Y 2006-07. An anomaly existed in the formula of computation of tax benefit which was rectified by Finance Act (No.2), 2009 w.e.f. AY 2010-11. Now, this rectification has been proposed to made applicable from AY 2006-07 (i.e. since inception) 	With retrospective effect from Assessment Year 2006-07
Weighted deduction in respect of Expenses on various researchs	35	<ul style="list-style-type: none"> Weighted deduction for contributions to approved research associations increased from 125% to 175% . Weighted deduction of expenditure incurred on an approved in-house research and development facility increased from 150% to 200%. 	Assessment Year 2011-12

...contd. (Exemptions/Deductions)



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Title	Section	Changes proposed	Effective from
Investment linked deduction extended to new hotels of two star or above category	35AD	Any new hotel of two star or above category which starts operating after 01.04.2010 anywhere in India , shall be eligible for investment linked deduction.	Assessment Year 2011-12
Relaxation in criterion for tax holiday on (middle income) housing projects	80 IB	<ul style="list-style-type: none"> ▪ Period of completion of such housing projects increased from 4 years to 5 years. ▪ Increased allocation for commercial built-up space. 	With retrospective effect from Assessment Year 2010-11
Cut off date to start hotel/convention centre in NCR extended	80 ID	Time limit to start a hotel or a convention centre has been marginally extended from 31st March, 2010 to 31st July'2010.	Assessment Year 2011-12



3. Tax Deducted at Source (TDS)

To simplify and rationalize the provisions relating to tax deduction at source, the threshold limits for non deduction of tax are proposed to be increased from **1st July'2010**. There has been **no change in the tax deduction rates**.

Only important TDS sections have been discussed here.

Section	Nature of Payments	Existing threshold limit for deduction of tax	Proposed threshold limit for deduction of tax
194C	Payments to Contractors <ul style="list-style-type: none">For single transactionFor aggregate of transactions during the financial year	20,000 50,000	30,000 75,000
194D	Insurance Commission	5,000	20,000
194H	Commission on Brokerage	2,500	5,000
194I	Rent	120,000	180,000
194J	Fee for professional or technical services	20,000	30,000

Title	Section	Changes proposed	Effective from
Expenses allowed in the same Financial Year if TDS is deposited on, or, before the due date of filing of tax return	40(a)(ia)	<ul style="list-style-type: none"> ▪ As per the current provisions, in case of expenses [i.e. rent, royalty, fee for technical or professional services payable to a resident] on which TDS deducted up to the last day of February is not paid by 31st March of the previous year or TDS deducted in the month of March is paid after the due date of filing of annual tax return u/s 139, such expenses are not allowed as a deduction in computing the income of the previous year in which such expenses are incurred. ▪ The Finance Bill, 2010 has proposed that expenses shall be allowed in the same previous year, if TDS deducted is paid on or before the due date of filing of annual tax return of that previous year. ▪ This means, even the TDS deducted from April to February of the relevant previous year can be deposited on or before the due date of filing of return in order to claim the deduction of expenses in the same previous year, which is not allowed till this proposed amendment. ▪ Please note that no such relaxation has been provided on TDS deducted on the amount of expenses paid or payable to any non-resident u/s 40(a)(i). 	With retrospective effect from AY 2010-11

Title	Section	Changes proposed	Effective from
Interest on delay in deduction or deposit of TDS	201(1A)	<ul style="list-style-type: none"> ▪ As per the existing provisions, in case of failure of deduction or payment of tax, the person is liable to pay simple interest at 1% per month or part of month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid . ▪ For strict compliance of TDS provisions, the interest rate has been proposed to be amended as below: <ul style="list-style-type: none"> • At 1% per month or part of the month on the amount of such tax from the date on which such tax was deductible to the date on which such tax is deducted. • At 1.5% per month or part of month on the amount of such tax from the date on which such tax was deducted to the date on which such tax is actually paid. ▪ Please observe the difference carefully between existing provision and the proposed provision. Earlier, only one rate of interest was applicable on TDS defaults. Now it has been proposed to divide the interest and TDS defaults in two parts i.e. interest @ 1% for delay in deduction of TDS and interest @ 1.5% for delay in deposit of TDS after deduction. ▪ Language of the proposed change suggests that in a case which involves both type of TDS defaults i.e. delay in deduction and delay in deposit after deduction, date of deduction will get included/counted twice for calculation of interest @1% and 1.5%. It requires clarification. 	1 st July' 2010

Title	Section	Changes proposed	Effective from
Issuance of TDS/TCS certificate	203(3) and 206(5)	<ul style="list-style-type: none"> ▪ As per the existing provisions of Sections 203 and 206, the requirement of issuance of certificate for TDS/TCS was to be dispensed with, w.e.f. 1st April,2010. ▪ The Finance Bill 2010 proposes to delete this provision altogether, which means deductor have to continue with issuance of TDS/TCS certificates. ▪ It appears that the intention behind deleting this provision is to avoid any hardship which a taxpayer sometime faces due to non availability of complete detail of TDS/TCS in the online system of the Income Tax Department. 	1.4.2010

4. International Taxation



Title	Section	Changes proposed	Effective from
<p>'Source Rule' of taxation for non-residents reiterated retrospectively</p>	<p>9(1)</p>	<ul style="list-style-type: none"> ▪ Section 9(1) provides for situations where income is deemed to accrue or arise in India. Vide Finance Act, 1976, a source rule was provided in section 9(1) through the insertion of the clauses (v), (vi) and (vii) for income by way of interest, royalty, or fees for technical services respectively. It was provided, <i>inter alia</i>, that, in case of payments as mentioned under these clauses, income would be deemed to accrue in India to non-residents under the circumstances specified therein. ▪ The Supreme Court in Ishikawajima-Harima Heavy Industries Ltd., Vs DIT (2007) [288 ITR 408] held that for section 9(1)(vii) [i.e., Fee for technical services] to apply, not only that services should be utilized in India, but they should also be rendered in India. If the services are not rendered in India, they cannot be taxed. Vide the Finance Act, 2007. An explanation was inserted in the Act to overcome the Ishikawajima-Harima decision. ▪ In spite of the Explanation inserted in 2007, the Courts have generally been holding that the twin conditions (i.e. rendition and utilization) prescribed in Ishikawajima-Harima must be fulfilled before any payment for technical services can be taxed in India. ▪ To explicitly overcome the decision of Ishikawajima-Harima and the subsequent decisions of Court, it has now been specifically clarified that technical services etc., even if rendered outside of India, can be taxed in India. The place of rendering of services is not the relevant criteria. What is relevant is the place of utilization of services. 	<p>With retrospective effect from Assessment Year 1977-78</p>

Title	Section	Changes proposed	Effective from
Presumptive Taxation	44BB and 44DA	<ul style="list-style-type: none"> ▪ The Finance Bill, 2010 seeks to amend section 44BB which relates to the special provision for computing profits and gains in connection with the business of exploration etc., of mineral oils. ▪ The purpose of this amendment is to clarify that section 44BB shall not apply in cases where section 44DA is applicable. ▪ On the same line, section 44DA has also been amended to clarify that section 44BB shall not apply in cases where section 44DA is applicable. ▪ The provisions of section 44DA provide for net basis of taxation, if the royalty, or fee for technical services is effectively connected to a permanent establishment of such non-resident. ▪ After this proposed amendment, the non-resident who is covered u/s 44DA shall not be able to enjoy the presumptive tax liability under the provisions of section 44BB on where the effective rate works out to be 4.223% on gross basis. 	Assessment Year 2011-12
	44AD	<ul style="list-style-type: none"> ▪ The threshold limit of total turnover or gross receipt is proposed to be increased from Rs. 40 lacs to Rs. 60 lacs. 	Assessment Year 2011-12

5. Other Important Changes



Title	Section	Changes proposed	Effective from
Tax audit limit increased	44AB	<ul style="list-style-type: none"> The tax audit limit for persons carrying on business has been increased from Rs. 40 lacs to Rs. 60 lacs. Similarly, the tax audit limit for persons carrying on profession has been increased from Rs. 10 lacs to Rs. 15 lacs. 	Assessment Year 2011-12
Penalty for failure to get accounts audited	271B	<ul style="list-style-type: none"> For strict compliance of Section 44AB, penalty under section 271B has been proposed to be increased from Rs. 1 lac to Rs. 1.5 lacs. 	Assessment Year 2011-12
Document Identification Number (DIN)	282B	<ul style="list-style-type: none"> To improve the standards of service and transparency in functioning of the Income Tax Department ('Department'), a new Section 282B was introduced by Finance Act (No.2) 2009 to introduce a computer based system of allotment and quoting of DIN on every document, notice, order, letter, or any other correspondence issued or received by the Department w.e.f. 1st October'2010. Now the Finance Bill, 2010 proposes to extend the deadline to introduce the above system from 1st October,2010 to 1st July,2011. 	1 st July 2011

...contd. (Other Important Changes)



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Title	Section	Changes proposed	Effective from
Power of High Court to condone delay in filing of appeals	260A	<ul style="list-style-type: none">In the recent past, various High Courts, including the full bench of the Allahabad High Court, in the case of <i>CIT vs. Mohd. Farooq 317 ITR 305</i>, and the Bombay High Court in <i>Grasim Ltd. 27 DTR 130</i>, have held that the High Courts have no power to condone delay in filing of appeal before it, under section 260A.Now, the Finance Bill, 2010 has proposed to insert sub-section (2A) in section 260A with retrospective effect to specifically provide that the High Court may admit an appeal after the expiry of the period of 120 days, if it is satisfied that there was sufficient cause for not filing the appeal within such period.	With retrospective effect from 1 st October, 1998

6. Personal Taxation



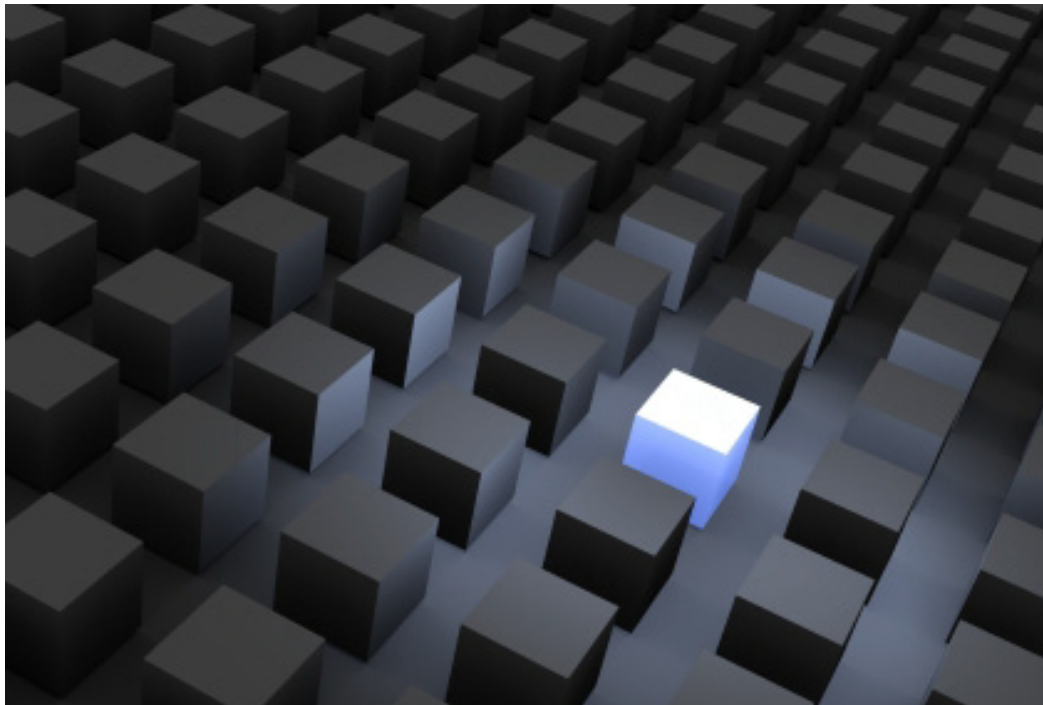
The tax slabs for individuals/HUF are proposed to be revised as follows:

Existing slab rates		Proposed slab rates	
Income (INR)	Rate of tax	Income (INR)	Rate of tax
0-160,000	Nil	0-160,000	Nil
Above 160,000 - 300,000	10%	Above 160,000 - 500,000	10%
Above 300,000 – 500,000	20%	Above 500,000 – 800,000	20%
Above 500,000	30%	Above 800,000	30%

Notes:

1. In case of resident women (below 65 years of age), the amount of INR 160,000 shall be replaced with INR 190,000.
2. In case of resident senior citizens, the amount of INR 160,000 shall be replaced with INR 240,000.

Title	Section /Chapter	Changes proposed	Effective from
New deduction for individuals/HUF	80CCF	<ul style="list-style-type: none"> ▪ To attract, or channelize savings to the infrastructure sector, a new section has been proposed to be inserted. Subscription made to notified long term infrastructure bonds to the extent of RS. 20,000 shall be allowed as deduction. ▪ This deduction shall be in addition to the combined deduction of Rs. 100,000 available under sections 80C, etc. Thus, the overall limit of deduction will increase from Rs. 100,000 to Rs. 120,000. ▪ Please note, the language of the proposed section suggests that the deduction under this section is available in relation to investments made during the Financial Year 2010-11 only . 	Assessment Year 2011-12



INDIRECT TAX

1. Service Tax



Title	Rule or Section	Changes proposed	Effective from
8 New services under service tax net	Sub-clauses (zzzzn) to (zzzzu) in clause (105) of section 65 of the Finance Act, 1994	<ul style="list-style-type: none"> ▪ Services of promoting, marketing, or organizing of games of chance, including lottery have now, been excluded from the definition of Business Auxiliary services. ▪ Specific services provided by any hospital, nursing home or multi-specialty clinic. ▪ Services provided for the maintenance of medical records of employees of a Business Entity. ▪ Services that promote a 'Brand' of goods, services, events, business entity, etc. ▪ Services of permitting commercial use or exploitation of any event organized by a person or organization. ▪ Services provided by Electricity Exchanges. ▪ Services related to two types of copyrights, hitherto not covered under existing taxable service 'Intellectual Property Right (IPR)', namely, those on (a) cinematographic films; and ,(b) sound recording. ▪ Special services provided by a builder, etc., to prospective buyers, such as providing preferential location, or external, or internal development of complexes on extra charges. However, charges for providing parking space have been specifically excluded from the scope of this service. Development charges, to the extent they are paid to State Government or local bodies, would also be excluded from the levy. 	Effective from a date to be notified, after enactment of Finance Bill, 2010

Title	Changes proposed	Effective from
<p>Alteration, or expansion in the scope of existing services</p>	<p>Renting of Immovable Property Services [Section 65 (90a) read with Section 65 (105)(zzzz)]:</p> <ul style="list-style-type: none"> ▪ Presently this service is defined to mean services in relation to renting of immovable property. Delhi High Court in case of <i>Home Solutions Retail India Limited & Others vs. UOI [2009 (14) STR 433]</i> held that the service tax under this category is on 'services in relation to renting' and not on mere 'renting'. ▪ By way of a retrospective amendment 'Renting of immovable property' will cover renting of immovable property in addition to any other service in relation to such renting for use in the course of or for furtherance of business or commerce. This is a retrospective amendment overriding the Delhi High Court judgment and shall be effective from 1st June'2007 from the date to be notified after the enactment of Finance Bill,2010. ▪ The definition of immovable property is further expanded to include the vacant land given on lease or license for construction of building or temporary structure at a later stage to be used for furtherance of business or commerce. This change in definition shall be effective from the date to be notified after the enactment of Finance Bill,2010. ▪ Clause 76 of the Finance Bill'2010 provides for validation of action taken in relation to levy, collection, recovery and refund of service tax on taxable services of "Renting of Immovable Property Service" for the period starting from 01-06-2007 till the date of enactment. 	<p>Mentioned in the bullet points</p>

Title	Changes proposed	Effective from
Alteration, or expansion in the scope of existing services	<ul style="list-style-type: none"> ▪ Taxable service of 'Construction of Complex' and 'Commercial or Industrial construction' would be deemed to be a taxable service unless the whole consideration is paid after the completion of the construction by the prospective Buyer. 	Effective from a date to be notified, after enactment of the Finance Bill, 2010
	<ul style="list-style-type: none"> ▪ The definition of 'IT Software Service' is proposed to be suitably amended to extend this levy to cover the aforesaid IT software services provided in all cases, i.e., whether or not used in the course, or furtherance of business or commerce. ▪ The proposed change will also cover the IT Software Services provided for personal use. 	Effective from a date to be notified, after enactment of the Finance Bill, 2010
	<ul style="list-style-type: none"> ▪ General exemption for 'Transport of goods by rail' is being restricted only to transport of specified goods. For others, abatement from gross value of freight charges of 70% is granted. 	1 st April, 2010 Notification No. 8/2010 Notification No. 9/2010

Title	Rule or Section	Changes proposed	Effective from
Amendment in Export of Services Rules, 2005	Rule 3(2)(a)	<ul style="list-style-type: none"> The condition prescribed under Rule 3(2)(a) i.e. 'such service is provided from India and used outside India' has been deleted. 	27 th February'2010 (Notification No. 06/2010)
	Rule 3(1)(ii)	<ul style="list-style-type: none"> Export or import, as the case may be, of Chartered Accountancy services, Cost Accounting services and Company Secretary services will be determined based on the location of the recipient, i.e., Rule 3(1)(iii), and not based on the place of performance, i.e., Rule 3(1)(ii). 	
	Rule 3(1)(i)	<ul style="list-style-type: none"> Export or import, as the case may be, of Mandap keeper service will be determined based on the location of the immovable property, i.e., Rule 3(1)(i), and not based on the place of performance, i.e., Rule 3(1)(ii). 	
Amendment in Service Tax (Determination of Value) Rules, 2006	Rule 6(2)(v) [new clause inserted]	<ul style="list-style-type: none"> Rule 6 deals with specific inclusions and exclusions for the purpose of determining value of a taxable service. Sub-clause (2) of the said Rule lists the items to be specifically excluded from the value of taxable service. This rule is amended to provide that, value, for the purpose of service tax, will exclude the taxes levied by any Government on any passenger travelling by air, if shown separately on the ticket, or the invoice for such ticket, issued to the passenger. 	27 th February'2010 (Notification No. 15/2010)

Title	Rule or Section	Changes proposed	Effective from
Service tax on packaged /canned software exempted	Item (v) in Sub-clause (zzzze) in clause (105) of section 65	<ul style="list-style-type: none"> Service tax has been exempted on packaged/canned software, intended for single use and packed accordingly, subject to specific conditions including payment of appropriate excise duty/custom duty 	27 th February'2010 <u>(Notification No. 17/2010)</u>
No penalty if service tax along with interest is paid before issuance of show cause notice	Section 73(3) of the Finance Act, 1994	<ul style="list-style-type: none"> It is proposed to clarify that no penalty shall be imposed where service tax, along with interest, has been paid before issuance of notice by the department. 	Effective from the date of enactment of Finance Bill, 2010
Change in refund mechanism for accumulated CENVAT credit to exporters	<u>Notification No. 05/2006-Central Excise (N.T.) dated 14th March'2006</u>	<ul style="list-style-type: none"> Notification No. 05/2006-CE-(N.T.) dated 14-03-2006 is amended to align it with the terms used in CENVAT Credit Rules,2004. Few changes are having retrospective effect and few of them are prospective in nature. <p>(...contd. to next page)</p>	

Title	Rule or Section	Changes proposed	Effective from
		<ul style="list-style-type: none"> ▪ The illustration given under condition 5 in the said Notification is deleted to ensure that refund of CENVAT Credit, availed in the period prior to the quarter/period for which the refund is claimed, is also eligible for refund. The refund claim should be calculated only on the basis of the ratio of export turnover to the total turnover of the claimant. This is to ensure that refund of CENVAT Credit is not linked to CENVAT Credit taken in a particular period only. ▪ Now, it is mandatory to submit prescribed details signed by statutory auditor in cases of refund in excess of 5 lakhs or by a person authorized by the Board of Directors in case of refunds less than 5 lakhs per quarter. 	<p>w.r.e.f. 14-03-2006 [Notification No. 07/2010 C.E. (N.T.)]</p> <p>27th February'2010 [Notification No. 07/2010 C.E. (N.T.)]</p>

2. Central Excise



Title	Rule or Section	Changes proposed	Effective from
Increase in the standard rate of excise duty		The standard rate of excise duty of 8% has been enhanced to 10%. This change seems to have been made to bring parity in taxes on goods and services. This move will facilitate the introduction of Goods & Service Act scheduled to be introduced from 1 st April'2011.	27 th February'2010
No penalty if excise duty along with interest is paid before issuance of show cause notice	Section 11A(2B)	<ul style="list-style-type: none"> It is proposed to clarify that no penalty shall be imposed where service tax, along with interest, has been paid before issuance of notice by the department. This explanation being a clarification, applies to all pending cases as well. 	Effective from the date of enactment of the Finance Bill, 2010
Pre authentication of invoices dispensed with	Rule 11(5) of Central Excise Rules,2002	<ul style="list-style-type: none"> As per erstwhile Rule 11(5), the owner ,or working partner ,or the Managing Director, or the Company Secretary, or any person duly authorized for this purpose shall authenticate each foil of the invoice book, before being brought into use. Now this rule has been omitted and there shall be no requirement of pre-authentication of invoice. 	01.04.2010 <u>[Notification No. 05/2010-C.E.(N.T.)]</u>

Title	Rule or Section	Changes proposed	Effective from
Accelerated depreciation on computers and peripherals	Rule 3(5) of CENVAT Credit Rules, 2004	<ul style="list-style-type: none"> ▪ The 2nd proviso of Rule 3(5) has been changed to provide an accelerated depreciation for reversal of CENVAT credit on removal of used computers and their peripherals. ▪ New rates are as below: <ul style="list-style-type: none"> ▪ First year @10% per each quarter ▪ Second year @8% per each quarter ▪ Third year @5% per each quarter ▪ Fourth and Fifth year @1% each quarter ▪ No change in rates for other capital goods 	27 th February'2010 [Notification No. 06/2010-C.E.(N.T.)]
Quarterly duty payment by SSI units	Rule 8(1) of Central Excise Rules,2002	The Rule has been amended to prescribe the quarterly duty payment by SSI (Small Scale Industries) units instead, of a monthly basis.	Financial Year 2010-11 [Notification No. 05/2010-C.E.(N.T.)]
Full CENVAT Credit on capital goods in the year of receipt itself - for SSI units	Rule 4(2)(a) of CENVAT Credit Rules, 2004	As a relaxation for SSI units, an amendment has been made to provide that such units can avail 100% CENVAT Credit on capital goods in the year of receipt.	01-04-2010 [Notification No. 06/2010-C.E.(N.T.)]

About us

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For any professional advice regarding budget provisions, we welcome your queries.

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*"A dream is not that
which you see in sleep
A dream is that
which does not let you sleep"*

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