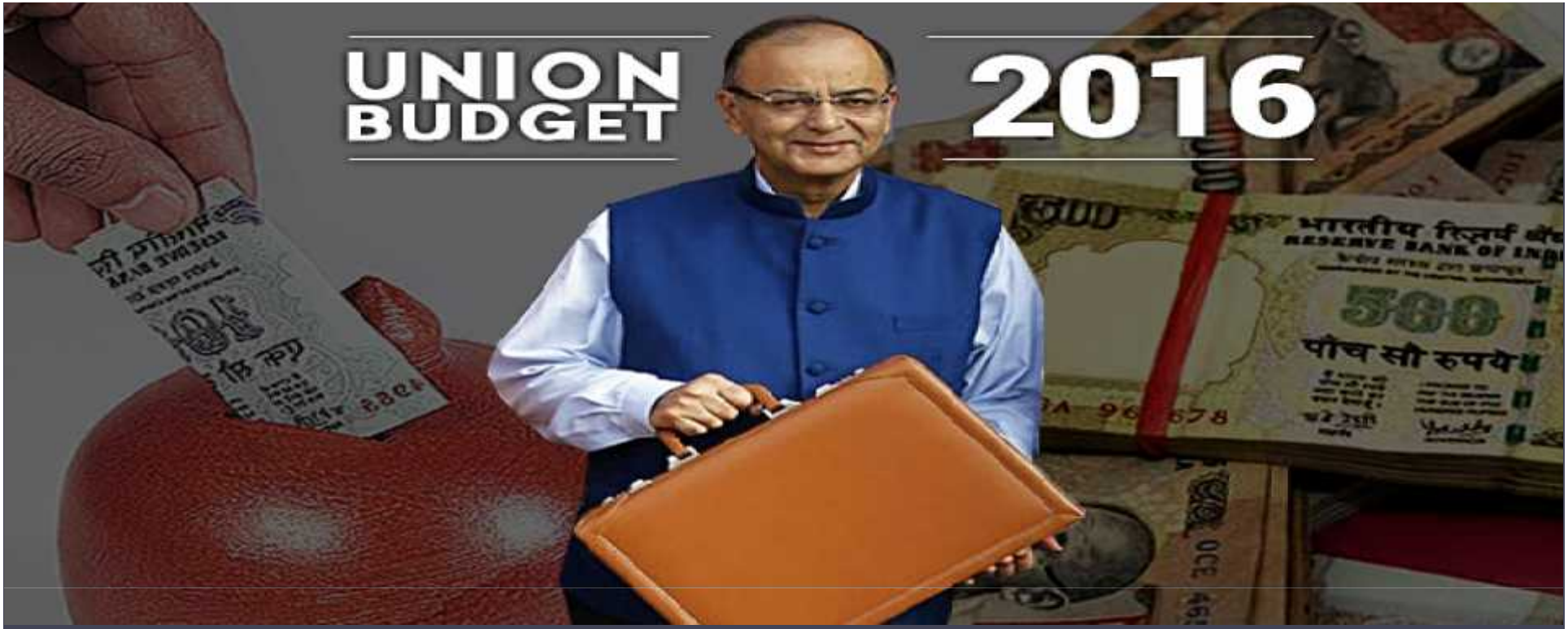


Implication of Union Budget 2016 on Service Tax

Organized by Vasai Branch of WIRC – ICAI

At New Zaika, Near East-West Fly Over,

Opp. Venkatesh Banquet Hall,

Bhayander (West),

6th March 2016

Budget 2016

- Global Economy is in serious crisis;
- Global Growth slow down from 3.4% to 3.1%;
- Financial markets haven been battered and global trade has contracted;
- 14th Finance Commission has reduced the Central Share of taxes to 58% from the 68%;
- Additional burden of 7th Central Pay Commission in F.Y. 2016 – 17;
- Implementation of Defense One Rank One Pension Plan.
- Shortage in rain fall from last 2-3 years.

Contribution of Service Tax

- In recent times, among indirect taxes, service tax has shown the highest rate of growth, and hence more and more focus on Service tax.

Rs. In croers

Particulars	Actual 2014-15	Budget 2015-16	Revised 2015-16	Budget 2016-17
Total Tax Revenue	12,44,885	14,49,490	14,59,611	16,30,888
Service Tax Revenue	167,969	209,774	210,000	231,000
% of Total Revenue	13.49%	14.47%	14.39%	14.16%

Tax Proposals Agenda – Transform India

(i) relief to poor;

(ii) measure to boost growth and employment generation;

(iii) incentivizing domestic value addition to help make in India;

(iv) measures for moving towards a pensioned society;

(v) measures for promoting affordable housing;

(vi) additional resource mobilization for agriculture, rural economy and clean environment;

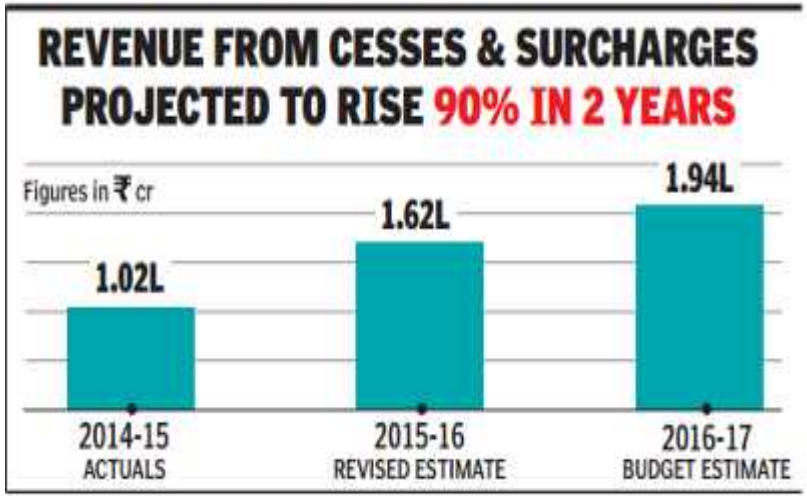
(vii) reducing litigation and providing certainty in taxation;

(viii) simplification and rationalization of taxation;

(ix) use of technology for creating accountability.

New Levy

- Service Tax remains un-changed – 14%
- Krishi Kalyan Cess is levied – 0.5%
- Effective date – 01-06-2016
- On all services
- Effective rate of tax – 15%
- Cenvat Credit eligible ?



Scope of Exemption Expanded

Services	Effective Date
Services provided by IIM for following course – (i) 2 Years full time Post Graduate Program in Management; (ii) 5 Years Integrated program in Management; (iii) Fellowship program in Management. Except Executive Development Program	01-03-2016
On going Construction Contract services provided to Government or a Local Authority or Government Authority which is entered prior to 01-03-2015 by way of construction of (i) Civil Structure or Other Original Work for non-commercial use; (ii) Structure use for (a) educational; (b) clinical; (c) art or cultural establishment. (iii) Residential complex for the use of Government or their employee or for MLA's, MP's, Members of Panchayat etc. Exemption is further extended for 4 years till 31-03-2020	01-03-2016

Scope of Exemption Expanded

Services	Effective Date
Construction Service of "Civil Structure" or "original work" pertaining to In-situ rehabilitation of existing slum developers under Housing for All (Urban) Mission (HAL) / Pradhan Mantri Awas Yojana (PMAY)	01-03-2016
Construction Service of "Civil Structure" or "original work" pertaining to Benificiary – led Individual house construction / enhancement under HAL / PMAY	01-03-2016
On going Construction Services pertaining to "Port" or "Air Port" which was entered prior to 01-03-2015 and – (i) Stamp duty is paid, if it is applicable prior to 01-03-2015 (ii) Certified by the Ministry of Civil Aviation or (iii) Ministry of Shipping in the Government of India, that contract has entered prior to 01-03-2015 Exemption is further extended for 4 years till 31-03-2020	01-03-2016

Scope of Exemption Expanded

Services	Effective Date
Construction Services pertaining to low cost houses up to a carpet area of 60 sq. m. (645 Sq. ft) per house in a housing project approved under - (a) the "Affordable housing in partnership" component of the Housing for All (Urban) Mission / PMAY. (b) any housing scheme of a State Government.	01-03-2016
Exemption limit enhanced for a performing artist in folk or classical art forms of music, dance or theatre, from Rs. 1 lakh to Rs. 1.5 lakh per performance.	01-04-2016
Services of general insurance business provided under 'Niramaya' Health Insurance Scheme.	01-04-2016
Services provided by Employees' Provident Fund Organization (EPFO) [Service by ESIC is under exemption from 01-07-2012]	01-04-2016

Scope of Exemption Expanded

Services	Effective Date
Services of life insurance business provided by way of annuity under the National Pension System.	01-04-2016
Services provided by Insurance Regulatory and Development Authority (IRDA)	01-04-2016
Services provided by Securities and Exchange Board of India (SEBI)	01-04-2016
Services provided by National Centre for Cold Chain Development.	01-04-2016

Scope of Exemption Expanded

Services	Effective Date
Software's on which CVD or Excise Duty is paid and such software's are sold on the bases of value required to be determined on the basis of Retail Sale Price (RSP) under Legal Metrology Act, 2009	01-04-2016
Services provided by Biotechnology Industry Research Assistance Council.	01-04-2016
Services by way of transportation of goods by an Aircraft from a place outside India up to the Custom Stations of clearance in India.	01-06-2016

New Services under Gamut of Levy

Services	Effective Date
Service of transportation of passengers in Air Conditioned Stage Carriage.	01-06-2016
Services of transport of passengers, in ropeway, cable car or aerial tramway.	01-04-2016
Assignment by the Government of the right to use radio-frequency spectrum and subsequent transfers (trading).	Enactment of Finance Bill
Services by way of transportation of goods in a Vessel from a place outside India up to the customs station of clearance in India. [Rule 10 of PPSR – Place of Destination]	01-06-2016

New Services under Gamut of Levy

Services	Effective Date
Services provided by a Senior advocate to an advocate or partnership firm of advocates or business entity.	01-04-2016
Services provided by a person represented on an arbitral tribunal to an arbitral tribunal.	01-04-2016
Service of construction, erection, commissioning or installation of original Work pertaining to monorail or metro whose contract is awarded after 01-03-2016.	01-03-2016
Service provided by Mutual Fund Agent/ Distributors to an Mutual Fund /Asset Management Company.	01-04-2016

Payment of Taxes – 01-04-2016

- Service Tax liabilities have to be discharged on quarterly basis where the assesse is an individual, proprietary firm or partnership firm. It is proposed to introduce two more categories of service provider's viz. (i) One Person Company (OPC) and (ii) Hindu Undivided Family.

- OPC is having option either to discharge service tax liability on taxable services provided or to be provided, by the specified date or when payment is received by them.

- HUF's are not entitled to discharge service tax liability on receipt of payment basis.

Filing of Annual Return – 01-04-2016

- Every assesee shall submit an annual return for the financial year by the 30th November of the succeeding financial year.
- Central Government has acquired powers to exempt an assessee or class of assesse who may not be required to submit the annual return.
- If assesse fails to submit annual return or files after due date, he would be liable to pay late filing fees of Rs. 100 per day for the period of delay in filing of such return, subject to maximum of Rs. 20,000
- Such annual return may be revised within a period of one month from the date of submission of the said annual return.

  [Revision of Belated Return?]

Interest on Late Payment

- Interest rates on delayed payment of duty / tax across all indirect taxes i.e. Customs, Excise and Service tax are being rationalized and made uniform to a simple rate of 15% p.a. w.e.f. the day the Finance Bill, 2016 receives the assent of the President.

- However, assessee's who have collects any amount as duty / taxes but not deposited/making late payment in Government Exchequers, are liable to simple interest of 24% p.a.

- If value of taxable services are less than Rs. 60 Lacs, rate of interest reduced by 3%.

Time limit for issuance of Notice

- If Service tax not levied or paid or short levied or short paid or erroneously refunded, for cases not involving fraud, collusion, suppression etc. by any person, Department can issued Show Cause Notice (SCN) within period of 18 months from the date of filing of return.

- Time limit has been enhanced to 30 months.

- Hence, from the enactment of the Finance Bill, 2016, Department will have more time for issuance of show cause notice for recovery of service tax.

Penalty for offence by Director of Co.

- When a company commits any of following default viz. (i) Evasion of Service Tax; or (ii) Issuance of Invoice without rendering services; or (iii) Avail and Utilize Cenvat Credit without receipt of goods or services; or (iv) failure to deposit collected tax beyond six months, then director, manager, secretary would be liable for penalty which may be extend up to Rs. 1 Lacs.

- It is proposed that if penalty proceedings initiated against company, is concluded, than no action would be taken against such director, manager or secretary.

Offence & Penalties

- Where any person commits following defaults viz. (i) Evasion of Service Tax; or (ii) Avail and Utilize Cenvat Credit without receipt of goods or services; or (iii) maintains false books of account or false information; or (iv) failure to deposit collected tax beyond six months, then such person shall be punishable with imprisonment for 3 or 5 years, if amount involved is Rs. 50 Lacs or more.

- Monetary limit is enhanced to Rs. 2 Crores.

- Further, power to arrest is also restricted only to situations where the tax payer has collected the tax but not deposited in to Government Exchequer above Rs. 2.00 Crores.

Clarified – Incentives received by ATA

- Air Travel Agent (ATA) receives incentives, from Company providing Computerized Reservation (CCRS) like Galileo, Amadeus etc. which provides facility of access to their internet system for booking of air tickets, for achieving the targeted booking of air tickets or for loyalty for booking of air tickets using software of CCRS.
- High Level Committee (HLC) clarified that service are provided by the ATAs to CCRS and is neither covered in the negative list (Section 66D of the Finance Act, 1994) nor exempt by a notification.
- Therefore, service tax is leviable on the incentives received by ATA from CCRS.

Clarified – Time limit for refund application

- Refund application for claiming refund under Rule 5 of CCR can be filed within a period of 1 year as provided in N. No. 27/2012– CE (NT) dated 18-06-2012. There exists confusion as to manner in which time limit of 1 year to be determined.
- Notification had been amended Retrospectively w.e.f. 01-03-2016 and provided in the notification that time of 1 year have to be from the date of –

  (a) receipt of payment in convertible foreign exchange, where provision of service has been completed prior to receipt of such payment; or

  (b) issue of invoice, where payment, for the service has been received in advance prior to the date of issue of the invoice.

Clarified – Institute of Language Management

- ILM's are engaged by various school's / institutions to develop knowledge and language skills of students. Since, ILM's are providing coaching / teaching to the students in a school or college, as a part of a curriculum. It was represented that such services should not be liable for Service tax.

- High Level Committee had clarified that services provided by ILM are not covered by Section 66D (l) or Entry 9 of the N. No. 25/2012, as it is the school / college which provide such education to the student. ILM is providing services to school / college and hence ILM are not eligible for exemption from Service tax.

Change in Abatement Rates – 01-04-2016

Nature of Service	Abatement	Tax Rate
Transport of goods in Container by Rail by Other than Indian Railway. [At present transport of goods by Railway – Abatement is 70%]	60%	5.80%
Transport of goods by road by GTA of used Household Goods. [Transport of goods by road by GTA, other than used household goods – 70%]	60%	5.80%
Transport of passengers in a Stage Carriage – Air-condition.	60%	5.80%
Construction of Residential Complex – condition of area and consideration criteria removed.	70%	4.35%

Indirect Tax Dispute Resolution Scheme

- In order to reduce the litigation under Indirect Tax Regime i.e. Customs, Excise and Service Tax and come to amicable resolution of disputes, New Scheme "Indirect Tax Dispute Resolution Scheme, 2016" has been launched by inserting Chapter – XI in the Finance Bill, 2016.

Indirect Tax Dispute Resolution Scheme

- Tax payers who had challenged any order before the First Appellate Authority i.e. Commissioner (Appeals) before 01-03-2016 and such dispute is not yet adjudicated may opt for the scheme and make a declaration up to 31-12-2016.

- The declarant is required to pay tax due along with the interest thereon and penalty equivalent to 25% of the penalty imposed in the impugned order, within fifteen days (15) of the receipt of the acknowledgment and intimate the designated authority within seven days (7) of making such payment.

Indirect Tax Dispute Resolution Scheme

- On payment of tax, interest and penalty, the designated authority shall within fifteen days (15) of the receipt of such proof, pass an order of discharge of dues.

- On passing of an order of discharge of dues, the appeal pending before the Commissioner (A) stands disposed of and the declarant shall get immunity from all proceedings under the Act.

- This declaration shall become conclusive upon the issuance of the order and no matter relating to the impugned order shall be reopened thereafter in any proceedings under the Act before any authority or court.

Indirect Tax Dispute Resolution Scheme

- The provisions of this Scheme shall not apply, if –
  - (a) The impugned order is in respect of search and seizure proceedings; or
  - (b) Prosecution for any offence punishable under the Act has been instituted before 01-06-2016; or
  - (c) The impugned order is in respect of narcotic drugs or other prohibited goods; or
  - (d) Any detention order has been passed under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974.

Cenvat Credit Provisions

- Equipment and Appliances used in an office located within a factory are being included in the definition of Capital goods so as to allow Cenvat credit on the same.

- Capital Goods and Inputs used for pumping of water, for captive use in the factory, even where such Capital Goods are installed outside the factory would be covered within the definition of Capital Goods and Cenvat Credit is eligible.

- All capital goods having value up to Rs. 10,000 per piece are being included in the definition of Inputs. This would allow an assessee to take whole credit on such capital goods in the same year in which they are received.

Cenvat Credit Provisions

- An outsourced manufacturing unit is included in the definition, so that credit can be distributed to such units by Input Service Distributor.

- Outsourced manufacturing unit means a job worker who is liable to pay duty on the value determined under rule 10A Central Excise Valuation Rules, 2000 on the goods manufactured for the ISD or a manufacturer who manufactures goods, for the ISD under a contract, bearing the brand name of such ISD and is liable to pay duty on the value determined u/s. 4A of Central Excise Act, 1944.

Cenvat Credit Provisions

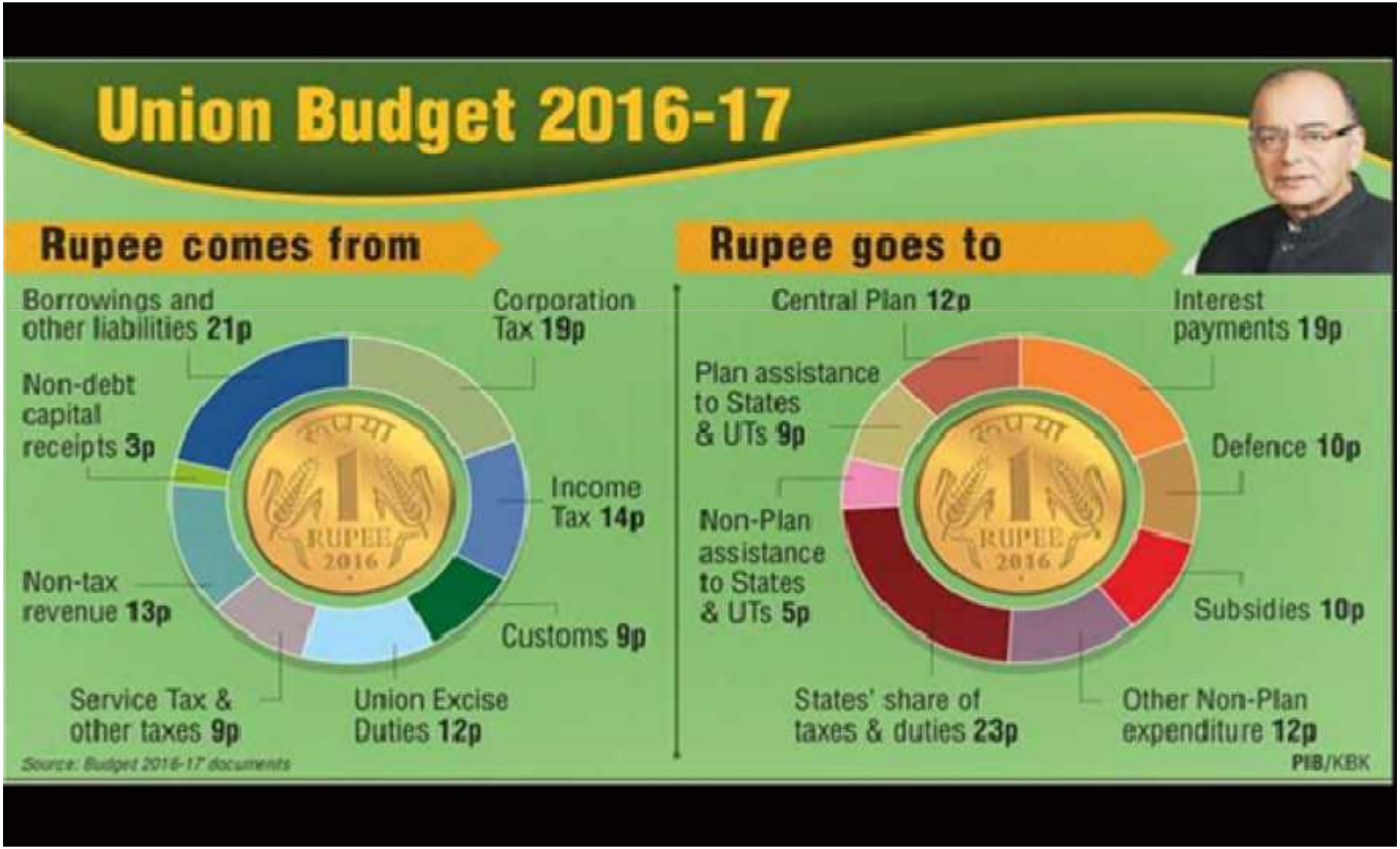
- Manufacturer of final products is being allowed to take CENVAT credit on tools under Chapter 82 of the Central Excise Tariff in addition to credit on jigs, fixtures, mould & dies, when intended to be used in the premises of job - worker or another manufacturer who manufactures the goods as per specification of manufacturer of final products.

- Manufacturer can send these goods directly to the job worker/other manufacturer without bringing the same to his premises.

Cenvat Credit Provisions

- The time limit of permission given by an AC/DC to a manufacturer of the final products for sending inputs or partially processed inputs outside his factory to a job worker and clearance there from on payment of duty is extended from one financial year to three years.

Receipts & Expenditure of a Rupee



Questions are guaranteed in life; Answers aren't.

So thanks for listening to my presentation about something I don't know anything about.
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