

## **CFI Post-Budget Meeting with CBE&C Chairman on 12<sup>th</sup> April 2016**

This is to inform the members that a delegation of CFI representatives had a meeting with **Shri Najib Shah, Chairman, Central Board of Excise & Customs (CBEC)** to discuss impact of indirect tax issues on 12<sup>th</sup> April 2016 at New Delhi.

The delegation members included Mr. Shyam Ramadi, Tax Advisor, Hindustan Construction Co. Ltd., Mr. P R Subramaniyan, Joint General Manager & Head, Indirect Taxes Dept., Larsen & Toubro, Mr. Sanjay Pusarla, CFO-E&C & Mr. Satish Gopal, General Manager, Indirect Tax respectively from Shapoorji Pallonji & Co. Pvt. Ltd., Mr. Mahesh Kothari, Deputy General Manager-Taxation, Simplex Infrastructure Ltd., Mr. Siddharth Singh, Secretary General and Mr. Shiv Rawat, Deputy Director respectively from CFI.

At the outset, CFI mentioned to the Chairman that the infrastructure construction sector is currently facing severe financial crisis due to huge debts for reasons beyond their control including delay in recovery of payments/claims from clients, litigations, multiplying interest on bank loans etc. and hence a helpful approach is urgently required at this juncture.

The gist of the discussions is given below:

### **1) Taxation issues arising from the Budget 2016:**

#### **a. Exemption to Ready Mix Concrete (Sr. No.144 of Not. No.12/2012-C.E. dated 17.03.2012) manufactured at site for use in construction work:**

The Federation once again submitted a representation on Ready Mix Concrete (RMC) with a request not to proceed with assessment or recovery of excise duty in respect of RMC manufactured at the site of construction for use in construction work at construction sites for the period between 2011 to 1.03.2016, pending disposal of this application.

**The CBEC Chairman has agreed to examine the issue.**

#### **b. Withdrawal of exemption of CVD on 16 Specified machinery (under Sr. No.368 of Not.No.12/2012-Cus. dated 17.3.2012) required for construction work of roads:** Withdrawal of Countervailing Duty (CVD) on TBM and now on specified Machinery required for construction work of roads would make imports difficult in view of requirement of large amount of funds for payment of CVD and SAD on import of such high value machineries.

**Suggestion:** Review the amendment and reinstate the exemption on TBM as well as specified machinery used in the construction work of roads.

#### **c. Restore exemption of Customs Duty on import of designs, plans, etc:** In the Finance Bill 2016, Customs duty has been imposed @ 10% on above goods In construction activities, most of the contracts are either on consortium or technical collaboration with foreign parties and most of the projects require designs and drawings etc to be arranged from abroad.

**Suggestion:** The levy of customs duty on such goods will steeply increase the project cost and therefore requests for restoration of the exemption.

- d. **Restoration of Mega exemption under Sr. No.12 of Not.No.25/2012-ST – Services provided to the Government for a temporary period:** As a temporary relief, the exemption is proposed to be restored for the Services provided to the Government, a local authority or a governmental authority by way of construction, erection etc. provided under the contract which had been entered into prior to March, 01, 2015 and on which appropriate stamp duty, where applicable, had been paid prior to that date. This exemption is being restored till March, 31, 2020.

**Suggestion:** Instead of restoring the exemption for contracts entered prior to 1st March, 2015, being civil structures of national importance, requested for restoration of permanent exemption. In any case, some of the contractors have entered into various contracts between the period from 01.03.2015 to 31.03.2015 and hence the exemption may be extended for contracts entered up to 31.03.2015 on principles of equity.

- e. **Restoration of Mega Exemption under Sr. No.14 of No.No.25/2012-S.T. (Services by way of Construction, erection etc. pertaining to an airport or port):** Budget proposed to restore the said exemption for contracts which had been entered into prior to March, 01, 2015. The exemption is proposed to be extended retrospectively during the period from April 01, 2015 to February 29, 2016 as per proposed Section 103 of the Act.

**Suggestion:** since construction of airports and ports are very important for a developing nation like ours, exemption may be restored permanently. In any case, some of the contractors have entered into various contracts between the period from 01.03.2015 to 31.03.2015 and hence the exemption may be extended for contracts entered up to 31.03.2015 on principles of equity.

Further, the additional restrictive term for exemption to contracts entered prior to 1.3.2015 stating “on which appropriate stamp duty where applicable, had been paid prior to that date subject to production of certificate from the Ministry of Civil Aviation or Ministry of Shipping, as the case may be that the contract had been entered prior to 1.3.2015” should be deleted.

- f. **Withdrawal of Exemption (under S.No.14 of Not. No.25/2012-S.T.) to Construction, erection, commissioning or installation of original work pertaining to Monorail or Metro railways:** The Budget proposes to withdraw the exemption available for services by way of construction, erection, commissioning, or installation of original works pertaining to monorail or metro in respect of contracts entered into on or after 1st March, 2016. This change would come into effect from 1st March, 2016.

**Suggestion:** Request for restoration of the exemption permanently in public interest.

- g. **Levy of Krishi Kalyan Cess @0.5% effective from 1<sup>st</sup> June 2016 :** It would be a cost for those projects which are exempted from service tax under Mega Exemption or Negative List of Services and cost of projects would increase. Prior to budget the Government has also introduced “Swachh Bharat Cess

effective from 15th November, 2015 However, this Cess is not cenvatable. Since the Construction work involves various sub-contracts the impact of the said Cess multiplies with the number of sub-contractors. Therefore, it is inevitable to allow Cenvat on this Cess as well as allowed for Krishi Kalyan Cess to avoid unnecessary impact on trade.

**Suggestion:** It is requested that imposition of KVC is reviewed and Cenvat credit is allowed on Swachh Bharat Cess (SBC), so as to avoid the cost impact on the sector.

2) The Federation also raised other important issues impacting the sector:

- a. **Excise duty exemption to goods used for water supply projects;**
- b. **Excise duty exemption to goods used in Sewerage Project;**
- c. **Issue of summons under Section 14 of Central Excise Act, 1944 to Sr. Officers of the Company for providing information/documents;**
- d. **Clarification required on Custom Circular No. 49/2011 dated 4th November, 2011 issued under F. No. 528/14/2008-Cus (TU)**

**Industry is in a dilemma whether to consider duty exemption accrued to be passed** on to the project authority or not. If Industry gets clear picture on this, all the benefit accrued may be passed on to the project authority and cost of the projects initiated by the government may drastically come down.

**Suggestion:** Since the contractor is allowed to import and use the auxiliary equipment for a particular project, the contractor may be allowed to withdraw the equipment from the site on production of project completion certificate from the Project Authority and the contractor should be free to utilize such equipment in any other projects.

Else, the contractor may be allowed to pay customs duty on the depreciated value of the goods to be calculated @5% on straight line method for each completed quarter starting from the date of importation of the goods till the date of withdrawal from project.

**The CBEC Chairman agreed to review the issue.**

- e. **Re-import of Indian goods sent abroad after 3/(5) years as prescribed in Notification No.94/96-Custom;**
- f. **Amendment to Sr. No.512 of Notification No.12/2012-Cus. dated 01.03.2012 relating to Water Supply Projects;**
- g. **To notify Rule 5 as Place of Provision of Service for Projects in J & K, irrespective of location of Service Provider & Service Receiver;**
- h. **Applicability of 'Point of Taxation Rules, 2011' in case of Real Estate/Housing sector;**

- i. Inclusion of allocation/reimbursement of cost/expenditure within group companies in the Negative List; and**
- j. Unutilized credits due to partial reverse charge mechanism (AOPs / Joint ventures)**

CBE&C Chairman has agreed to review crucial issues faced by the sector and informed that if any inputs/papers are required for further discussion, he will inform the Federation accordingly.