

## Mr FM Sir-what is grouse against the software industry – Mar 1, 2008

**Mr FM Sir – What is your grouse against software industry?**

**By S Sivakumar**

MR Chidambaram Sir, when you started your Budget speech today with the words “Mr Speaker, Sir”, the software industry had every hope that you will continue to show the kindness and understanding that you have always show towards this industry. Post Budget, it seems clear that this industry has received a raw deal from you. Belying expectations, you have not uttered a word in the Budget on the extension of the tax holiday available to the industry, whose significant turnover being exports, comes from Software Technology Park Units which are entitled to tax exemption under Section 10B of the Income tax Act, 1961.

By implication, you have not announced the tax holiday extension which was widely expected from you. This is certainly very bad news for the 1500 odd STP Units, most of whom will not be able to get into SEZs. Firstly, the rentals in SEZs are far too high and most SME software companies cannot afford getting into the SEZs. Secondly, most SEZs are outside of the urban/ city lights making the decision to move into SEZs, an impractical one. You have failed to appreciate that one of the biggest factors contributing to the success of the SME STPs has been the tax holiday.

Not being content with this, you have also imposed service tax on the software sector. You have so widely defined the new taxable service, viz. Information Technology Software Service that practically everything connected with the software industry will now come under the service tax net. You have also left no planning possible with requisite amendments excluding the exemption that was till now available for software services under ‘ Business Auxiliary Services’ and ‘ Consulting Engineer’s Service’. Software services is perhaps one of the services which has been exempted over the years and over the last four years, you had resisted any attempt to tax this sector. But now, in a complete turnaround, you have brought the software services under the service tax net. You have been smart enough not to specifically mention this, in your speech. But the Finance Bill and the Notifications make your intentions to levy service tax on the software sector clear. As can be seen, the definition of the new taxable service, viz.

Information Technology Software Service, given below, which will practically include anything and everything connected to the software services industry.

### **INFORMATION TECHNOLOGY SOFTWARE SERVICE:**

*Information Technology (IT) software service includes,-* • Development (study, analysis, design and programming) of software. • Adaptation, up-gradation, enhancement, implementation and other similar • Services in relation to IT software. • Provision of advice and assistance on matters related to IT software, including:

- o Conducting feasibility studies on the implementation of a system,
- o Providing specifications for a database design,
- o Providing guidance and assistance during the start-up phase of a new system,
- o Providing specifications to secure a database,
- o Providing advice on proprietary IT software.

- o Acquiring the right to use,-
  
- o IT software for commercial exploitation including right to reproduce, distribute and sell,
  
- o Software components for the creation of and inclusion in other IT software products,
  
- o IT software supplied electronically.

Software consists of carrier medium such as CD, Floppy and coded data. Softwares are categorized as “normal software” and “specific software”. Normalised software is mass market product generally available in packaged form off the shelf in retail outlets. Specific software is tailored to the specific requirement of the customer and is known as customized software. Packaged software sold off the shelf, being treated as goods, I would presume that your unsympathetic attitude towards the software sector started last year itself, when you extended the applicability of Minimum Alternate Tax (‘MAT’) under Section 115JB, to STP Units also. Not being content with this, you had also brought ESOPs into the FBT net during 2007-08. Moreover, you also levied services tax on commercial rentals, which affected the software sector more than anybody else, as they are the only bunch of people who pay high rentals on the commercial space used by them. Looked from all angles, it does look that the software sector is one of the worst hit, after your fifth record budget.

Mr Finance Minister Sir – you could have been kinder to the software sector.

**(The author is Director, S3 Solutions)**