

EXPLANATORY NOTES (CUSTOMS)

CHAPTER 1 to 4

No change

CHAPTER 5

5.1 Customs duty on unworked Corals has been reduced from 5% to nil. [S. No. 547 of notification No. 21/2002- Customs amended vide notification No. 77/2009-Customs refers].

CHAPTER 6 to 24

No change

CHAPTER 25

25.1 Customs duty on rock phosphate (2510) has been reduced from 5% to 2% [S. No. 584 of notification No.21/2002-customs inserted vide notification No. 77/2009-Customs refers].

CHAPTER 26 & 27

No change.

CHAPTER 28 to 39

28.1 Basic customs duty on Alkyl esters of long chain fatty acids obtained from vegetable oils, commonly known as bio-diesels is being reduced from 7.5% to 2.5%. [S. No. 585 of notification No. 21/2002-Customs inserted vide notification No. 77/2009-Customs refers].

28.2 Basic customs duty on 9 (nine) specified life saving drugs and their bulk drugs and 1 (one) vaccine is being reduced to 5% with Nil C.V duty by way of excise duty exemption. [List 3 of notification No. 21/2002-Customs amended vide notification No. 77/2009-Customs refers].

CHAPTER 40 to 50

No change

CHAPTER 51 & 52

51.1 Basic customs duty on waste of wool is being reduced from 15% to 10%. [S. No. 586 of notification No. 21/2002-Customs inserted vide notification No 77/2009-Customs refers].

51.2 Basic customs duty on cotton waste is being reduced from 15% to 10%. [S. No. 587 of notification No. 21/2002-Customs inserted vide notification No. 77/2009-Customs refers]

CHAPTER 53 to 70

No change.

CHAPTER 71

71.1. Basic customs duty on gold and silver has been increased, as under:-

<u>S. No.</u>	<u>Item</u>	<u>Present duty</u>	<u>Proposed duty</u>
1.	Gold bars, other than tola bars, bearing Manufacturer's or refiner's engraved serial number and weight expressed in metric units, and gold coins	Rs. 100 per 10 gms	Rs. 200 per 10 gms
2.	Gold in any form (other than those specified, against S. No. 1), including liquid gold and tola bars	Rs. 250 per 10 gms	Rs. 500 per 10 gms
3.	Silver in any form	Rs. 500 per Kg	Rs. 1,000 per Kg

The above rates shall also apply to gold and silver including gold/silver ornaments (excluding ornaments studded with stones or pearls) imported as baggage by eligible passengers coming to India [Notification No. 78/2009-Customs has been issued to amend Notification Nos.172/1994-Customs, 31/2003-Customs and 62/2004-Customs].

CHAPTER 72 to 83

No change.

CHAPTER 84 & 85

84.1 Concessional customs duty of 5% on specified plantation machinery, which was available up to 30.04.09, has been reintroduced for one more year i.e. up to 06.07.10. [Clause

(b) in the proviso to the preamble of notification No.21/2002-Customs as substituted vide notification No. 77/2009-Customs refers].

84.2 Customs duty on Permanent magnets for manufacture of PM synchronous generators above 500KW for use in wind operated electricity generators is being reduced from 7.5% to 5%. [S. No. 224A of notification No. 21/2002-Customs inserted vide notification No. 77/2009-Customs refers].

84.3 Customs duty exemption on concrete batching plants of capacity 50 cum/hr or more has been withdrawn. These items will now attract 7.5% customs duty. [Item (13) in list 18 against S. No. 230 of notification No. 21/2002-Customs, omitted vide notification No. 77/2009-Customs refers].

84.4 Customs duty on mechanical harvesters for coffee plantation sector is being reduced from 7.5% to 5%. This exemption is valid for one year up to 06.7.2010. [Item (viii) in list 32A against S. No. 252A of notification No. 21/2002-Customs inserted vide notification No. 77/2009-Customs refers].

84.5 The description of machinery items for use in leather or footwear industry at S. No's. 33, 34, 40, 77, 110, 117, 136, 151, 158, 159, 171, 185, 223, 253, 256 and 262 of List 34 of notification no. 21/2002-Customs is being amended vide notification No. 77/2009-Customs.

85.1 Exemption has been provided to packaged or canned software, subject to specified conditions, from so much of the additional duty of customs leviable thereon under subsection (1) of section 3 of the Customs Tariff Act, 1975 as is equivalent to the duty payable on the portion of the value which represents the consideration paid or payable for transfer of the right to use such software. Service tax is chargeable on this portion of the value under the Information Technology Software Service. The exemption from additional customs duty is available only if the importer is registered as a Service Tax assessee under the provisions of Finance Act, 1994. For fulfilling this condition, the importer may be asked to furnish a copy of Service Tax registration. [Notification No. 80/2009-Customs refers].

85.2 Customs duty exemption on set-top boxes, also known as integrated decoder receiver, has been withdrawn. These items will now attract 5% customs duty. [S. No. 538 of notification No. 21/2002-Customs, amended vide notification No. 77/2009-Customs refers].

85.3 Customs duty on LCD panels for manufacture of LCD TV is being reduced from 10% to 5%. [S. No. 319A of notification No. 21/2002-Customs inserted vide notification No. 77/2009-Customs refers].

85.4 Full exemption from special additional duty of customs on parts, components and accessories of mobile handsets including cell phones, has been reintroduced. This exemption is valid for one year. [Notification No. 79/2009-Customs refers].

CHAPTER 86 to 88

No change

CHAPTER 89

89.1 Basic customs duty on inflatable rafts has been fully exempted. [S. No. 588 of notification No. 21/2002-Customs inserted vide notification No. 77/2009-Customs refers].

CHAPTER 90

90.1 Customs duty on Artificial Heart (left ventricular assist device) is being reduced from 7.5% to 5%. This device already attracts nil excise duty/ CVD. [S. No. 589 of notification No. 21/2002-Customs inserted vide notification No. 77/2009-Customs refers].

90.2 Customs duty on Patent Ductus Arteriosus/ Atrial Septal Defect occlusion devices is being reduced from 7.5% to 5% with Nil CVD by way of excise duty exemption. [S. No. 590 of notification No. 21/2002-Customs inserted vide notification No. 77/2009-Customs refers].

CHAPTER 91 to 94

No change

CHAPTER 95

95.1 Basic customs duty is being fully exempted on snow skis and other snow-ski equipment, water-skis, surf-boards, sailboards and other water-sports equipment. [S. No. 591 of notification No. 21/2002-Customs inserted vide notification No. 77/2009-Customs refers].

CHAPTER 96 & 97

No change

CHAPTER 98

98.1 CVD exemption on Aerial Passenger ropeway projects has been withdrawn. [S. No 433(2) of notification No. 21/2002-Customs, amended vide notification No. 77/2009-Customs refers].

MISCELLANEOUS AND LEGISLATIVE AMENDMENTS:

M.1 The import duty exemption provided for specified goods for manufacture of leather garments or textile garments for export is being extended to one more item (S. No. 167 of notification No. 21/2002-Customs as amended by notification No. 77/2009-Customs dated 07.07.2009 refers). However, the exemption will be subject to the existing overall value limit of 3% and other specified conditions.

M.2 The import duty exemption provided for specified goods imported for manufacture of leather goods, footwear etc. for export is being extended to ten more groups of items (S. No. 167A of notification No. 21/2002-Customs as amended by notification No. 77/2009-Customs dated 07.07.2009 refers). However, the exemption will be subject to the existing overall value limit of 3% and other specified conditions.

M.3 Customs duty on five more specified items for use in manufacture of sports goods is being reduced to nil. [S. No. 583 of notification No. 21/2002-Customs amended vide notification No. 77/2009-Customs refers].

M.4 A new section 26A has been inserted in Customs Act, 1962 to provide for refund of import duty paid at the time of clearance for home consumption on imported goods found to be defective or otherwise not in accordance with specification agreed upon between the importer and the supplier of goods. Refund under this provision would be available only if the importer either exports the goods or relinquishes title and abandons them to customs or if the goods are destroyed so that they become commercially valueless. There are other conditions prescribed in the provision. These may be examined carefully and in case any operational difficulties are envisaged, the matter may be taken up with Director (Customs), CBEC (Clause 84 of the Finance (No.2) bill, 2009 refers).

M.5 Section 28F of the Customs Act has been amended to provide that the Central Government may by notification authorize the Authority for Advance Ruling constituted under Section 245-O of the Income Tax Act to act as an Authority for the purposes of customs, central excise and service tax subject to some modification regarding the constitution of the Authority. The change will come into effect from a date to be notified (Clause 85 of the Finance (No.2) bill, 2009 refers).

M.6 Sections 130 and 130A of the Customs Act have been amended to empower the High Court to condone the delay in filing of appeals/applications/memorandum of cross objections where it is satisfied that there is sufficient cause for delay (Clauses 86 & 87 of the Finance (No.2) bill, 2009 refer).

M.7 Section 137 of the Customs Act has been amended to exclude certain types of offences and circumstances from the purview of compounding provisions. Consequential amendments have been made in Sections 156 & 157 of the Customs Act respectively. (Clauses 88, 89 & 90 of the Finance (No.2) bill, 2009 refer).

M.8 Notification No.27/2009-Customs (N.T.) dated 17.3.2009 notifies DGCEI officers as officers of Customs under Customs Act, 1962 with an all-India jurisdiction.

Validation clause has been taken in the Finance (No.2) Bill, 2009 to validate appointment of officers of customs under sub-section (1) of section 4 read with sub-section (1) of section 5 of Customs Act, 1962 and specifying their jurisdiction vide notification No.

27/2009-Customs (N.T.) dated 17.3.2009 and to validate action taken by such officer of customs on and from 9th May, 2000 as if their area of jurisdiction as specified in the said notification was in force at all material times (Clause 91 of the Finance (No.2) bill, 2009 refers).

M.9 Notification No. 40/2006-Customs dated 01.05.2006 has been amended retrospectively from its date of issue so as to allow the facility of rebate in respect of locally procured materials used in the manufacture of goods exported under the Duty Free Import Authorisation Scheme and carry out other related changes (Clause 92 of the Finance (No.2) bill, 2009 refers).

M.10 Section 3 of the Customs Tariff Act, 1975 has been amended to make provision for cases where the Central Government has fixed a tariff value under sub-section (2) of section 3 of the Central Excise Act, 1944, for the like article produced or manufactured in India for the collection of Central Excise duty. In such cases, it has been prescribed that the value of the imported article shall be deemed to be such tariff value for the purpose of assessment of additional duty of customs (Clause 93 of the Finance (No.2) bill, 2009 refers).

M.11 Section 8C of the Customs Tariff Act, 1975, has been amended retrospectively so as to extend the machinery provisions of the Customs Act, 1962 (52 of 1962) including those relating to, the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties in respect of country specific safeguard duty (Clause 96 of the Finance (No.2) bill, 2009 refers).

Validation clause has been taken in the Finance (No.2) Bill, 2009 to validate certain actions taken under any rule, regulation, notification or order made or issued under the Customs Act, 1962 or any notification or order issued under such rule or regulation in respect of country specific safeguard duty at any time during the period commencing on and from the 11th May, 2002 and ending with the day, the Finance (No.2) Bill, 2009, receives the assent of the President (Clause 97 of the Finance (No.2) bill, 2009 refers).

Similar amendments have been carried out in the provisions relating to levy of other duties under the Customs Tariff Act, 1975 as per the following details:

Section 8B of Customs Tariff Act, 1975	Safeguard duty	Clauses 94 & 95 of the Finance (No.2) bill, 2009 refer.
Section 9 of Customs Tariff Act, 1975	Countervailing duty	Clauses 98 & 99 of the Finance (No.2) bill, 2009 refer.
Section 9A of Customs Tariff Act, 1975	Anti-dumping duty	Clauses 100 & 101 of the Finance (No.2) bill, 2009 refer.

M.12 Sub-section 1 of Section 9A of the Customs Tariff Act, 1975 has been amended to insert the words exporter or producer and a new sub-section 6A has also been inserted so as to provide that the margin of dumping in relation to articles exported by an exporter or producer shall be determined on the basis of records concerning normal value and export price maintained by such exporter or producer. In the case of an exporter who does not maintain records, the margin of dumping would be determined on the basis of facts. (Clause 100 of the Finance (No.2) bill, 2009 refers).

M.13 Para (A) of Section Note 2 of SECTION XI of First Schedule to Customs Tariff Act, 1975 has been amended so as to provide that Goods classifiable in Chapters 50 to 55 or in heading 5809 or 5902 and of a mixture of two or more textile materials, shall be classified as if consisting wholly of that one textile material which predominates by weight or any other single textile material. However, when no one textile material predominates by weight the goods are to be classified as if consisting wholly of that one textile material which is covered by the heading which occurs last in numerical order among those which equally merit consideration (Clause 102 of the Finance (No.2) bill, 2009 refers).