

CUSTOMS

- Note:**
- (a) "Customs Duty" means the customs duty levied under the Customs Act, 1962.
 - (b) "CVD" means the Additional Duty of Customs levied under sub-section (1) of section 3 of the Customs Tariff Act, 1975.
 - (c) "SAD" means the Special Additional Duty of Customs levied under sub-section (5) of section 3 of the Customs Tariff Act, 1975.

Changes come into effect immediately unless otherwise specified.

Major proposals about customs duties are the following:

A. GENERAL

1. The First Schedule to the Customs Tariff Act, 1975 is being amended vide Clause 57 of the Bill to give effect to the tariff changes relating to the Union Customs Duties.
2. The basic customs duty rates of 2%, 2.5% and 3% are being unified at the median rate of 2.5%.

B. Proposals involving changes in rates of duty, whether by amendment of tariff rates or by notification

I. FOOD/AGRO PROCESSING/AGRICULTURE:

- 1) Basic customs duty is being reduced from 5% to 2.5% on specified agriculture machinery namely paddy transplanter, laser land leveler, cotton picker, reaper-cum-binder, straw or fodder balers, sugarcane harvesters and track used for manufacture of track-type combine harvester.
- 2) Basic customs duty is being reduced from 7.5% to 2.5% on parts and components required for the manufacture of equipment at (1) above.
- 3) Basic customs duty is being reduced from 7.5% to 5% on micro-irrigation equipment (tariff item 8424 8100).
- 4) Basic customs duty on raw pistachios is being reduced from 30% to 10%.
- 5) Basic customs duty on sun-dried dark seedless raisins is being reduced from 100% to 30%.
- 6) Basic customs duty on cranberry products is being reduced from 30% to 10%.
- 7) Full exemption from basic customs duty is being extended to de-oiled rice bran oil cake.
- 8) Export duty of 10% is being imposed on exports of de-oiled rice bran oil cake.

II. AUTOMOBILES:

- 1) Full exemption from basic customs duty and SAD and concessional CVD @5% (by way of a central excise duty exemption) is being extended to specified parts of the hybrid vehicles, namely, battery pack, battery chargers, AC/DC electric motors and motor controllers. The concession is subject to actual user condition and will be available till 31.03.2013.
- 2) The customs duty dispensation and concessional CVD @5% at (1) above is also being made available to import of spare battery packs for the electric vehicles by importers which are registered with the agencies notified for Central Financial Assistance (CFA) scheme of the Ministry of Non-conventional & Renewable Energy (MNRE).
- 3) A definition for "Completely Knocked Down (CKD) unit" of a vehicle including two wheelers, eligible for concessional import duty, is being inserted to exclude from its purview such units containing a pre-assembled engine or gearbox or transmission mechanism or a chassis where any of such parts or sub-assemblies is installed.

III. SPECIAL ECONOMIC ZONES:

- 1) All clearances from SEZ into DTA are being exempted from SAD provided they are not exempt from the levy of VAT/Sales Tax.
- 2) The CVD exemption currently available to Plastic materials reprocessed in India out of the scrap or the waste of goods falling under specified chapters is being extended to domestic tariff area clearances of such plastic materials manufactured in SEZ units also.

IV. SHIP REPAIRS:

The benefit of exemption currently available to ship repair units on imports of spares and consumables required for repair of ocean going vessels is being extended to such spares and consumables for repairs of ocean going vessels by owners of such vessels registered in India.

V. TEXTILES:

- 1) Basic customs duty is being reduced on raw silk (not thrown) of all grades from 30% to 5%.
- 2) Cotton waste is being fully exempted from basic customs duty.

- 3) Basic customs duty on Poly Tetra Methylene Ether Glycol (PTMEG) and Diphenylmethane 4, 4-diisocyanate (MDI) is being reduced from 7.5% to 5% subject to actual user condition.
- 4) Basic customs duty is being reduced from 5% to 2.5% on Acrylonitrile.
- 5) Basic customs duty is being reduced from 7.5% to 5% on Sodium Polyacrylate.
- 6) Basic customs duty is being reduced from 10% to 7.5% on Caprolactum.
- 7) Basic customs duty is being reduced from 10% to 7.5% on Nylon chips, fibre & yarn.
- 8) Basic customs duty is being reduced from 5% to 2.5% on rayon grade wood pulp.

VI. CAPITAL GOODS/INFRASTRUCTURE:

- 1) The scope of full customs duty exemption to water supply projects for agricultural and industrial use is being expanded to the water pumping station and water reservoir of such projects.
- 2) The benefit of full exemption from basic customs duty and CVD currently available to 'Tunnel Boring machine' and parts thereof for hydro-electric power projects is being extended to such machines for highway development projects also.
- 3) Basic customs duty is being reduced from 7.5% to 5% for specified gems and jewellery machinery.
- 4) Full exemption from basic customs is being provided to cash dispensers. Parts required for the manufacturer of cash dispensers are also being exempted from basic customs duty on actual user basis.
- 5) The concessional import duty of 5% basic customs duty, 5% CVD & Nil SAD currently applicable to high-speed printing machinery is being extended to mailroom equipment compatible with such printing machinery imported by registered newspaper establishments.
- 6) A concessional rate of 5% basic customs duty , 5% CVD & Nil SAD is being extended to parts and components for manufacture of 23 specified high voltage transmission equipments.
- 7) Full exemption from basic customs duty is being extended on bio-based asphalt sealer and preservation agent, millings remover and crack filler, asphalt remover and corrosion protectant and sprayer system for bio-based asphalt applications.

VII. CONCESSIONS TO ENVIRONMENT-FRIENDLY ITEMS:

- 1) Concessional CVD @5% (by way of a central excise exemption) and full exemption from SAD is being provided to LEDs used for manufacture of LED lights and light fixtures.
- 2) Basic customs duty is being reduced from 10% to 5% on solar lantern or lamps.
- 3) Full exemption from customs duty is being extended to toughened glass and silver paste imported for manufacture of solar cells or solar modules on actual user basis.

VIII. HEALTH SECTOR:

- 1) Endovascular stents are being fully exempted from basic customs duty of 5%.
- 2) A concessional import duty regime of 5% Basic customs duty, 5% CVD & Nil SAD is being prescribed on specified raw material for the manufacture of syringes, needles, catheters, cannulae on actual user basis.
- 3) Exemption from SAD is being provided to P&P medicines imported for retail sale.
- 4) Customs duty on four specified life saving drugs and their bulk drugs is being reduced from 10% to 5% with Nil CVD (by way of excise duty exemption).
- 5) Basic customs duty on lactose for use in the manufacture of homoeopathic medicines is being reduced from 25% to 10%.

IX. ELECTRONICS HARDWARE:

- 1) A concessional import duty structure of 5% CVD and Nil SAD is being prescribed on parts of inkjet and laser-jet printers imported for manufacture of such printers.
- 2) Full exemption from basic customs duty is being extended to parts/components required for the manufacture of PC connectivity cable and sub-parts of parts & components of battery charger, hands-free head phones and PC connectivity cable of mobile handsets including cellular phones.
- 3) Full exemption from SAD presently available upto 31.03.2011 on parts, components and accessories for manufacture of mobile handsets including cellular phones is being extended upto 31.03.2012.
- 4) Full exemption from customs duty is being extended to additional specified capital goods and raw materials for the manufacture of electronic hardware.

- 5) A concessional import duty structure of 5% CVD and Nil SAD is being prescribed on parts for manufacture of DVD writers, Combo drives and CD Drives subject to actual user condition.

X AIRCRAFTS:

- 1) A basic customs duty of 2.5% is being imposed on imports of aircrafts for non-scheduled operations. The exemption from additional duty of customs (CVD) and special additional duty of customs (SAD) would continue.
- 2) Exemption from education cess and secondary and higher education cess presently available to aircrafts is being withdrawn.

XI. EXPORT PROMOTION:

- 1) The list of specified goods, allowed to be imported duty free for use in the manufacture of leather goods, for export is being expanded.
- 2) The list of specified goods, allowed to be imported duty free for use in the manufacture of textile and leather garments, is being expanded by including anti-theft devices like labels, tags and sensors therein.
- 3) Description of some items is being changed in the list of items that are allowed to be imported duty free for manufacture of textile or leather garments and other leather goods for export.
- 4) Benefit of duty free import on trimmings, embellishments, components etc. for manufacture of leather goods, footwear and textile garments is being extended to merchant exporters subject to certain conditions.
- 5) Specified tools used in the handicrafts sector are being included in the list of specified goods, allowed to be imported duty free to Handicrafts exporters.
- 6) Full exemption from basic customs duty is being extended to fin fish feed.
- 7) Basic customs duty on vannamei broodstock is being reduced from 30% to 10%.
- 8) Basic customs duty on bamboo used for manufacture of agarbattis is being reduced from 30% to 10%.

XII. PAPER:

Basic customs duty on waste paper is being reduced from 5% to 2.5%.

XIII. METALS:

- 1) Full exemption from basic customs duty is being extended to stainless steel scrap.
- 2) Basic customs duty on ferro-nickel is being reduced from 5% to 2.5%
- 3) Statutory rate of export duty on iron ores is being increased from 20% to 30% while unifying the effective rate of export duty on iron ore fines and lumps at 20%.
- 4) Iron ore pellets are being fully exempted from the export duty.
- 5) Copper dross, copper residues, copper oxide mill scale, brass dross and zinc ash are being exempted from levy of SAD.
- 6) Basic customs duty on vanadium pentoxide and vanadium sludge is being reduced from 7.5% to 2.5%.
- 7) Exemption from basic customs duty is being provided on the value of gold and silver contained in the copper concentrate.

XIV. PRECIOUS METALS:

An import duty of Nil basic customs duty, CVD of Rs.140 per 10 gram and Nil SAD is being prescribed for gold dore bars of upto 80% gold purity imported for refining and manufacturing serially numbered gold bars in India.

XV. MISCELLANEOUS:

- 1) Basic customs duty is being reduced from 5% to 2.5% on carbon black feed stock.
- 2) Basic customs duty is being reduced from 5% to 2.5% on petroleum coke.
- 3) Basic customs duty is being reduced from 5% to 2.5% on mineral gypsum.
- 4) Crude palm stearin is being fully exempted from basic customs duty for use in the manufacture of laundry soap on actual user basis.
- 5) At present specified categories of works of art and antiquities are exempted from customs duty. The scope of the exemption is being expanded by including,—
 - (a) works or arts or antiquities for exhibition or display in private art galleries or similar premises that are open to general public;

- (b) works of art created by an Indian artist abroad, irrespective of the fact whether such works are imported along with the artist or the sculptor on their return to India.
- 6) Special provision is being made in the Finance Bill imposing definitive safeguard duty retrospectively on imports of caustic soda lye imported into India during the period 04.12.2009 to 03.03.2010
 - 7) Special provision is being made in the Finance Bill to retrospectively provide a concessional basic customs duty of 30% to fresh garlic imported by National Consumer Cooperative Federation and Madhya Pradesh State Cooperative Marketing Federation under import licenses issued by the Central Government and cleared after 15.1.2003.
 - 8) Certain notifications are being amended retrospectively to allow exports made under the EPCG scheme to simultaneously avail of benefits under Export Reward Schemes such as Served From India Scheme, Focus Market Scheme etc.

[The changes at S. No. 6, 7 and 8 will come into effect on enactment of the Finance Bill]

XVI. AMENDMENTS IN CUSTOMS ACT, 1962:

- 1) Section 2 is being amended to include 'self-assessment' within the definition of 'assessment'.
- 2) Section 17 is being amended to replace the existing system of assesment with 'self-assessment' of duty on imported and export goods by the importer or exporter. The revised provisions empower customs officers to verify the self assessment and if required, reassess duty on the imported or export goods. It is being further provided that the officers may conduct audit in certain situations either in their own office or at the premises of the importer or exporter.
- 3) Section 18 is being amended to make the provisions relating to provisional assessment of duty applicable in case an importer or exporter is unable to make self-assessment with the proposed scheme of 'self-assessment'.
- 4) Section 19 is being amended to align the provisions relating to determination of duty where goods consist of articles liable to different rates of duty with the proposed scheme of 'self-assessment' under section 17.
- 5) Sub-section (1) of section 27 is being substituted so as to enhance the time limit for claiming refund of duty and interest from six months to one year. This will bring uniformity for both demanding duty and claiming refund.
- 6) Section 28 is being substituted so as to make the provisions more coherent and clear as also to harmonize the demand period in normal cases to one year.
- 7) Section 28AA and 28AB are being substituted with a revised section 28AA so as to make the provisions relating to interest more coherent and clear.
- 8) Section 46 is being amended to provide that an entry of imported goods shall be presented electronically and to empower the Commissioner of Customs to allow filing of entry in any other manner when it is infeasible to present electronically.
- 9) Section 50 is being amended to provide that an entry of export goods shall be presented electronically and to empower the Commissioner of Customs to allow filing of entry in any other manner when it is infeasible to present electronically.
- 10) Section 75 is being amended to enable the Central Government to prescribe circumstances under which drawback would not be disallowed even though the export remittances are not received within the period specified in the Foreign Exchange Management Act.
- 11) Section 110A is being amended to empower the adjudicating authority to allow release of seized goods.
- 12) Section 124 is being amended to provide for issuance of a show cause notice with prior approval of an officer not below the rank of an Assistant Commissioner of Customs.
- 13) Section 131D is being inserted retrospectively with effect from 20.10.2010 to empower the Board to issue instructions relating to non-filing of appeal in certain cases in line with National Litigation Policy.
- 14) A new section 142A is being inserted so as to create first charge on the property of the defaulter for recovery of the customs dues from such defaulter subject to provisions of section 529A of the Companies Act, the Recovery of Debt due to Bank and Financial Institution Act, 1993 and Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
- 15) Section 150 is being amended so as to provide that the balance of sale proceeds of unclaimed cargo sold in auction shall be paid to the Government when it cannot be paid to the owner within six months,
- 16) Section 151A is being amended so as to empower the Board to also issue instructions to customs authorities on any other matters under the Customs Act or any other Act for the time being in force so far as they relate to prohibition, restrictions or procedure relating to import or export of goods.
- 17) Section 157 is being amended to empower the Board to prescribe regulations for specifying the manner of conducting audit at the office of the proper officer of customs or at the premises of the importer.

[These legislative changes will come into effect on enactment of the Finance Bill]

XVII. AMENDMENTS IN CUSTOMS TARIFF ACT, 1975:

- 1) Section 3 is being amended to substitute the reference to Standards of Weight & Measures Act, 1976 with Legal Metrology Act, 2009 with effect from 1.3.2011.
- 2) Section 9AA is being amended so as to enable the Central Government to reduce the anti-dumping duty imposed under the provisions of sub-section (1) of section 9A on an article or an importer where such importer proves to the satisfaction of the Central Government that he has paid anti-dumping duty in excess of his actual margin of dumping.
- 3) Customs Tariff (Identification, Assessment and Collection of Anti Dumping duty on Dumped Articles and for Determination of Injury) Rules, 1995 is being amended so as to revise provisions of rule 23 so as to align the same with Article 11 of the WTO Agreement on anti dumping and also to insert Annexure-III containing principles to determine the non-injurious price.

[These legislative changes will come into effect on enactment of the Finance Bill]

XVIII. AMENDMENTS IN THE SCHEDULES TO THE CUSTOMS TARIFF ACT, 1975:

- 1) The First Schedule is being amended to include editorial changes in the Harmonized System of Nomenclature (HSN) in certain chapters, which would be effective from 01.01.2012.
- 2) Description of heading 9804 in the First Schedule is being amended to cover all dutiable items intended for personal use, imported by post or air and to prescribe a tariff rate of 35% for tariff items under the heading.
- 3) The Second Schedule is being amended so as to align the entries with the Harmonized System of Nomenclature (HSN) and introduce a new entry for de-oiled rice bran cake. The effective rates of export duty on all items other than iron ores lumps, fines and pellets; and de-oiled rice bran cake are being maintained.

[These legislative changes at (1) will come into effect on enactment of the Finance Bill]

CENTRAL EXCISE

Note: Changes come into effect immediately unless otherwise specified.

Major proposals about Central Excise duty are the following:

A. General :

The First Schedule to the Central Excise Tariff Act, 1985 is being amended vide clause 70 of the Finance Bill to give effect to Tariff changes relating to Union Excise duties.

B. Proposals involving changes in rates of duty whether by amendment of tariff rates or by notification

- 1) The concessional rate of excise duty of 4% is being increased to 5%. Accordingly, items such as prepared foodstuff like sugar confectionary, pastry and cakes; starches; paper and articles of paper; textile intermediates & textile goods; drugs; medical equipments etc would now be subject to the enhanced rate of duty of 5%.
- 2) An excise duty of 1% without Cenvat credit facility is being imposed on about 130 specified items, which were hitherto either fully exempt from excise duty or chargeable to nil rate of excise duty. General SSI exemption would be available to all products covered under this new levy.
- 3) A mandatory excise duty of 10% is being imposed on readymade garments and textile made ups bearing a brand name or sold under a brand name. General SSI scheme is also being extended to readymade garments and other textile made up articles. Duty shall be charged on the tariff value @ 60% of their retail sale price.
- 4) An excise duty of 5% is being imposed on automatic looms and projectile looms.
- 5) Exemption from excise duty available to clearances upto 3500 metric tonne of paper manufactured from non-conventional material is being withdrawn.
- 6) Full exemption from excise duty is being withdrawn on microprocessors for computer, other than motherboards; floppy disc drive; hard disc drive; CD-ROM drive; DVD drives/DVD writers; flash memory and combo drives meant for fitment inside the CPU or laptop. These goods will attract a concessional rate of excise duty of 5%.

C. SECTOR SPECIFIC RELIEF MEASURES:

I. FOOD/AGRO PROCESSING:

Full exemption from excise duty is being extended to,—

- (a) Air-conditioning equipment, panels and refrigeration panels for installation of cold chain infrastructure for the preservation, storage, transport or processing of agricultural, horticultural, dairy, poultry, apiaries, aquatic and marine produce.
- (b) Conveyor belt systems for use in cold storage for the preservation, storage, transport or processing of agricultural, horticultural, dairy, poultry, apiary, aquatic and marine produce and in mandis & warehouses for storage of food grains and sugar.

II. CAPITAL GOODS:

- 1) Excise duty exemption is being extended to goods required for expansion of an existing mega/ultra mega power project under specified conditions at par with exemption from CVD on the import of goods for expansion of such projects.
- 2) Excise duty is being reduced from 10% to 5% on parts of specified textile machinery.
- 3) Full exemption from excise duty is being extended to specified part of sewing machines (other than those with in-built motors).

III. ENVIRONMENT FRIENDLY AND ENERGY SAVING GOODS:

- 1) A concessional rate of excise duty of 10% is being prescribed for hydrogen vehicles based on fuel cell technology.
- 2) Excise duty is being reduced from 10% to 5% on hybrid kits for conversion of fossil fuel vehicles to hybrid vehicles. Parts of such kits would also attract 5% duty.

IV. Cement:

The rates of duty on cement and cement clinker are being revised as follows:

Mini cement plant:

Cement	Present rate	Proposed rate
1. Cleared in packaged form,—		
(i) of retail sale price not exceeding Rs. 190 per 50 kg bag or of per tonne equivalent retail sale price not exceeding Rs. 3800;	Rs.185 per tonne	10% ad valorem
(ii) of retail sale price exceeding Rs. 190 per 50 kg bag or of per tonne equivalent retail sale price exceeding Rs. 3800;	Rs.315 per tonne	10% ad valorem + Rs.30 per tonne
2. Cleared other than in packaged form.	Rs.215 per tonne	10% ad valorem

Other than mini cement plant:

Cement	Present rate	Proposed rate
1 Cleared in packaged form,—		
(i) of retail sale price not exceeding Rs. 190 per 50 kg bag or of per tonne equivalent retail sale price not exceeding Rs. 3800;	Rs. 290 per tonne	10% ad valorem+ Rs.80 per tonne
(ii) of retail sale price exceeding Rs. 190 per 50 kg bag of per tonne equivalent retail sale price exceeding Rs. 3800;	10% of retail sale price	10% ad valorem+ Rs.160 per tonne
2. Cleared other than in packaged form.	10% or Rs. 290 per tonne, whichever is higher	10% ad valorem
Cement clinker	Rs.375 per tonne	10% ad valorem+ Rs.200 per tonne

V. HEALTH:

Excise duty on sanitary napkins, baby & clinical diapers and adult diapers is being reduced from 10% to 1% with no Cenvat credit. Similar articles of textile wadding shall also get this concessional duty treatment.

VI. WATER SUPPLY:

- 1) Full exemption from excise duty currently available to pipes required for delivery of drinking water from its source to the plant and from there to the first storage point is being extended to pipe fittings such as joints, elbows, couplings etc.
- 2) Concessional rate of excise duty of 1% is being extended to water filters using pressurized tap water but without use of electricity and their replaceable kits.

VII. AUTOMOBILE SECTOR:

- 1) Concessional rate of excise duty @10% is being extended to factory built ambulances. Other vehicles retrofitted as ambulances subsequent to their removal from the factory shall continue to be eligible for refund based concession.
- 2) The scope of the Taxi Refund Scheme is being extended to include vehicles carrying 13 persons including the driver.
- 3) Concessional excise duty structure for taxis is being rationalized to provide refund of 20% of the excise duty paid on vehicles if they are registered as a taxi subsequent to removal.
- 4) Full exemption from excise duty is being extended to parts of power tillers when cleared to another factory of the same manufacturer for manufacturing power tillers.

VIII. PAPER & PAPER BOARD:

- 1) Cotton Stalk Particle boards are being fully exempted from excise duty.
- 2) Concessional rate of 5% excise duty is being extended to corrugated boxes whether or not pasted with Duplex sheet on their outer surface.
- 3) Excise duty is being reduced from 10% to 5% on greaseproof paper and glassine paper.

D. PRECIOUSMETALS:

- 1) Excise duty is being reduced on serially numbered gold bars, other than tola bars, made starting from the ore/concentrate stage in the same factory from 'Rs.280 per 10 grams' to 'Rs.200 per 10 grams'.
- 2) Concessional excise duty rate of Rs.200 per 10 grams is being extended to serially numbered gold bars manufactured by refining of gold dore bar also.
- 3) Excise duty of 'Rs.300 per 10 gram' is being imposed on serially numbered gold bars, other than tola bars, manufactured during the process of copper smelting.
- 4) Excise duty of 'Rs.1500 per Kg.' is being imposed on silver manufactured during gold refining starting from ore/concentrate stage or from gold dore bar or during the process of copper smelting.
- 5) Excise duty of 1% is being imposed on branded jewellery and branded articles of precious metals.

E. TEXTILES:

- 1) A tariff rate of excise duty of 10% is being prescribed for jute yarn while it is being simultaneously exempted from excise duty.

F. MISCELLANEOUS:

- 1) Enzymatic preparations used in leather industry are being fully exempted from excise duty.
- 2) Full exemption from excise duty (and hence from CVD on imports) is being provided to colour, unexposed cinematographic film in jumbo rolls of 400 feet and 1000 feet.

G. AMENDMENTS IN CENTRAL EXCISE ACT, 1944:

- 1) Section 4A is being amended to substitute the reference to Standards of Weight & Measures Act, 1976 with Legal Metrology Act, 2009 with effect from 01.03.2011.
- 2) Provisions of Section 11A, 11AA, 11AB and 11AC are being redrafted so as to make them more lucid and coherent. A new category of cases is being carved out in respect of which the period of limitation would be five years but which would attract general penalty of 50% of the duty. Waiver of show cause notice and conclusion of proceedings would be available if the duty along with interest and specified penalty is paid before the issue of show cause notice in such cases.
- 3) A new section 11E is being inserted so as to create first charge on the property of the defaulter for recovery of central excise dues from such defaulter subject to provisions of section 529A of the Companies Act, the Recovery of Debt due to Bank and Financial Institution Act, 1993 and Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
- 4) Section 12 is being amended to insert reference to section 3A with effect from the date of introduction of section 3A i.e. 10.05.2008.
- 5) Section 12F is being inserted to empower the Joint Commissioner or the Additional Commissioner of the Central Excise to himself search or authorize a central excise officer to carry out the search of any premises.
- 6) A new section 35R is being inserted retrospectively with effect from 20.10.2010 so as to empower the Board to issue instructions relating to non-filing of appeal in certain cases in line with National Litigation Policy.
- 7) Section 38(2) is being amended to make its provisions applicable to notifications issued under section 5B also.
[These legislative changes will come into effect on enactment of the Finance Bill]

H. AMENDMENTS IN THE SCHEDULES TO CENTRAL EXCISE TARIFF ACT, 1985

- 1) A tariff rate of 5% is being prescribed for specified items, which are being subjected to an effective rate of 1% excise duty without Cenvat credit facility.
- 2) Chapter Note 5 of Chapter 15 is being amended to insert heading 1501, 1502, 1503, 1504, 1505 and tariff item 1516 1000 therein.
- 3) A chapter note is being inserted in Chapter 22 so as to provide that in relation to products of this chapter, labelling or re-labelling of containers or packing or repacking from bulk packs to retail packs or the adoption of any treatment to render the product marketable to the consumer, shall amount to manufacture.

- 4) A chapter note is being inserted in Chapter 26 so as to provide that in relation to products of this chapter, the process of converting ores into concentrates shall amount to manufacture.
- 5) Two chapter notes are being inserted in Chapter 63 so as to define the expression 'brand name' and to provide that affixing a brand name on the product, labelling or re-labelling of containers or packing or repacking from bulk packs to retail packs or the adoption of any treatment to render the product marketable to the consumer, shall amount to manufacture.
- 6) A chapter note is being inserted in Chapter 71 so as to provide that the process of refining of dore bar shall amount to manufacture.
- 7) Tariff rate of excise duty is being increased from Nil to 10% on silver powder, silver unwrought and semi-manufactured silver in specified forms.
- 8) A chapter note is being inserted in Chapter 72 so as to provide that in relation to products of this chapter, the process of galvanisation shall amount to manufacture.
- 9) The First Schedule is also being amended to include editorial changes in the Harmonized System of Nomenclature (HSN) in certain chapters, which would be effective from 01.01.2012.
- 10) The Third Schedule is being amended retrospectively to include certain specified goods, which were notified under section 4A. This change will come into effect on enactment of the Finance Bill.

I. AMENDMENTS IN CENVAT CREDIT RULES, 2004:

- 1) Rule 2 is being amended to substitute the definitions of inputs, input services, capital goods, exempted goods and exempted services with a view to bringing greater clarity.
- 2) Rule 3 and 4 are being amended to disallow utilization of credit for paying duty on concessional goods (in respect of which an exemption, other than full exemption, is availed subject to the condition that no Cenvat credit of inputs and input services is taken).
- 3) Rule 3 is being amended retrospectively with effect from 18.04.2006 to provide that the credit of service tax paid under section 66A of the Finance Act, 1994 shall also be permissible. This change will come into effect on enactment of the Finance Bill.
- 4) The availment of Cenvat credit by ship breaking units is being restricted to 85% of the additional duty of customs (CVD) paid at the time of importation of ships for breaking.
- 5) Rule 4 (7) is being amended to provide for reversal of Cenvat credit in case any payment made towards an invoice of input service is received back.
- 6) Rule 6 is being amended to,—
 - (a) reduce the requirement of payment of 6% of the value of exempted services to 5%;
 - (b) provide an option to maintain separate accounts for inputs alone and reverse the amount of input services credit as per the allocation formula in rule 6 (3A).
 - (c) provide that a payment made under this rule shall be treated as credit not availed for the purpose of an applicable exemption;
 - (d) clarify the value of services in cases where the same is not clearly defined and tax is collected on a compounding or specific principle;
 - (e) Rule 6(5) is being omitted.
- 7) Rule 6(3B) is being introduced to provide that only 50% of the Cenvat credit availed will be available for utilization towards payment of service tax under 'Banking and other financial services' by a banking company and financial institution.
- 8) Rule 6(3C) is being introduced to provide that only 80% of the Cenvat credit availed will be available for utilization towards payment of service tax by the providers of life insurance service and management of investment under ULIP.
- 9) A new rule 6(6A) is being inserted to provide that the provisions of sub-rule (1), (2), (3) and (4) of the said Rule shall not apply to taxable services provided to SEZ Unit or Developer without payment of service tax.

J. AMENDMENT IN MEDICINAL AND TOILET PREPARATIONS (EXCISE DUTIES) ACT, 1955:

Explanation III of the Schedule is being amended to substitute the reference to Standards of Weight & Measures Act, 1976 with Legal Metrology Act, 2009 with effect from 01.03.2011.

[The abovementioned legislative change will come into effect on enactment of the Finance Bill]

K. ADDITIONAL DUTIES OF EXCISE (GOODS OF SPECIAL IMPORTANCE) ACT, 1957:

Sugar and textile items are being omitted from the schedule of the Additional Duties of Excise (Goods of Special Importance) Act, 1957

[The abovementioned legislative change will come into effect on enactment of the Finance Bill]

SERVICE TAX

I. SERVICE TAX IS BEING IMPOSED ON THE FOLLOWING SPECIFIED SERVICES:

- 1) Services provided by air-conditioned restaurants having a license to serve alcoholic beverages in relation to serving of food and/or beverages.
- 2) Short-term accommodation provided by a hotel, inn, guesthouse, club or campsite, or any other similar establishment for a continuous period of less than three months.

The above services will come into effect from a date to be notified, after the enactment of Finance Bill, 2011.

II. SCOPE OF CERTAIN EXISTING SERVICES IS BEING EXPANDED OR ALTERED AS FOLLOWS:

- 1) The scope of the 'Life insurance service' is being widened to cover all services provided to a policyholder or any person, by an insurer, including re-insurer carrying on life insurance business. It is also being provided that tax shall be charged on the portion of the premium other than what is allocated for investment, when the break-up of premium is shown separately in any document given to the policy holder. The composition rate is also being increased from 1% to 1.5%.
- 2) The scope of the 'Club or association service' is being expanded to include service provided to non-members within its ambit.
- 3) The scope of 'Authorized service station service' is being expanded to:
 - (a) include services provided by any person;
 - (b) cover all motor vehicles other than those meant for goods carriage and three-wheeler scooter auto-rickshaws; and
 - (c) also cover the services of decoration and similar services in respect of vehicles along with the services already covered.
- 4) The definition of 'Business support services' is being amended to include the services provided by way of operational or administrative assistance in any manner.
- 5) The scope of Legal consultancy services is being expanded by bringing within its ambit the:
 - (a) service provided by a business entity to individuals in relation to advice, consultancy or assistance in any branch of law, in any manner;
 - (b) representational service provided by any person to any business entity (representational services, provided to individuals will continue to be exempt); and
 - (c) service of 'arbitration' provided by an arbitral tribunal to any business entity.
- 6) In the Commercial Training or Coaching service, the definition of "Commercial training or coaching centre" is being amended to bring all unrecognized courses within the tax net, irrespective of the fact that such courses are conducted by an institute which also conducts courses which may lead to grant of a recognised degree or diploma.
- 7) The scope of Health services is being expanded by including:
 - a) All services, including diagnostic services, provided, by a centrally air-conditioned (wholly or partially) clinical establishment having more than 25 beds for in-patient treatment during any part of the year;
 - b) Diagnostic services being provided by a clinical establishment with the aid of laboratory or other medical equipment; and
 - c) Services provided by a doctor, not being an employee of a clinical establishment, from the premises of such establishment.

In view of the comprehensive coverage of health services under (a), (b) and (c) above, the existing health services where payments are required to be made directly by the insurance company or business entities would no longer be operational.

The above changes will come into effect from a date to be notified, after the enactment of Finance Bill, 2011.

III. EXEMPTIONS

- 1) Exemption is being provided to services provided by an organizer of business exhibitions in relation to business exhibitions held outside India.
- 2) An abatement of 25% from the taxable value is being provided for the purpose of levy of service tax under 'Transport of goods through coastal and inland shipping'.
- 3) Exemption is being provided to 'Works contract' service provided for construction or finishing of new residential complex under 'Jawaharlal Nehru National Urban Renewal Mission' and 'Rajiv Awaas Yojana'.
- 4) Exemption is being provided to services provided within a port or other port or an airport under the 'Works contract' service for specified purposes.
- 5) Exemption is being provided to 'Rashtriya Swasthya Bima Yojana' under the 'General insurance' service.

- 6) Value of air freight included in the assessable value of goods for charging customs duties is being excluded from taxable value for the purpose of levy of service tax under the 'Transport of goods by air' service.
- 7) Services related to transportation of goods by road, rail or air when both the origin and the destination are located outside India is being exempted from service tax.
- 8) A modified scheme is being introduced to refund service tax to SEZ units and developers and notification No. 9/2009-ST is being superceded. In the modified scheme, 'wholly consumed' services are being defined in the notification in order to extend 'outright exemption' and to permit refund of all other services on a proportionate basis.

The changes at S. No. (1) to (5) and (8) will come into effect immediately. Changes at S. No. (6) and (7) will be effective from 01.04.2011.

IV. WITHDRAWAL OR AMENDMENTS OF EXEMPTIONS:

- 1) The rates of service tax on travel by air are being revised as follows:

(a) Domestic travel	(economy class):	from Rs.100 to Rs.150
(b) International travel	(economy class):	from Rs.500 to Rs.750
(c) Domestic travel	(other than economy class)	10% (Standard rate)

The above changes will come into effect from 01.04.2011.

- 2) Exemption from service tax on the membership fees under 'Club or association service' is being given to the associations or chambers representing industry or commerce for the period from 16.06.2005 to 31.03.2008.
- 3) Retrospective effect is being given to notification No.20/2009-ST dated 07.07.2009 exempting service tax on inter-State or intra-State transportation of passengers in a vehicle bearing Contract carriage permit or a tourist vehicle permit for the period from 01.04.2000 to 06.07.2009.

The changes at S. No. (2) & (3) are being given effect through the Finance Bill, 2011 and will come into effect from the date of enactment of the Bill.

V. AMENDMENTS IN RULES AND NOTIFICATIONS:

- 1) The monetary limit of Rs.1,00,000/- for adjustment under Rule 6(4B)(iii) of the Service Tax Rules, 1994 is being raised to Rs.2,00,000/-.

[The change will come into effect from 01.04.2011]

- 2) Rule 6(7A) of the Service Tax Rules, 1994 is being amended to provide that that an insurer carrying on life insurance business shall have the option to pay tax,—

- (a) on the amount of gross premium charged from a policy holder reduced by the amount allocated for investment, where the breakup of the amount allocated for investment is shown separately to the policy holder;
- (b) on an amount calculated @ 1.5% of the gross amount of premium charged from a policy holder in cases other than (i) above;

towards the discharge of his service tax liability instead of paying service tax at the rate specified in section 66 of Finance Act, 1994.

Such option shall not be available in cases where the entire premium paid by the policy holder is only towards risk cover in life insurance.

[The above change will come into effect from a date to be notified, after the enactment of Finance Bill, 2011]

- 3) Clause (B) of Rule 6(7) of the Service Tax Rules, 1994 pertaining to sale and purchase of foreign exchange is being amended to,—

- (a) omit the proviso as well as the illustration; and
- (b) reduce the composition rate from 0.25% to 0.1% of the gross amount of currency exchanged towards discharge of service tax liability.

- 4) Rule 6(6A) is being inserted in Service Tax Rules, 1994, to provide that if any amount of service tax has been self-assessed and not paid, the same shall be recoverable with interest under section 87 of the Act. Thus, there shall be no need to resort to provisions of section 73.

- 5) It is being defined in Service Tax (Determination of Value) Rules, 2006 that the value of the money changing service:

- (i) for a currency exchanged either from or to Indian Rupees, shall be equal to the units of currency exchanged multiplied by the difference in the buying rate or the selling rate, as the case may be, and the RBI reference rate for that currency for that day;
- (ii) for a currency where the RBI reference rate is not available, shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money;
- (iii) where neither of the currencies exchanged is Indian Rupee, shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day.

- 6) An explanation is being added to rule 5(1) of Service Tax (Determination of Value) Rules, 2006 to clarify that for the purpose of Telecommunication services, the value of the taxable service shall be gross amount charged by the telegraph authority from the service receiver.
- 7) Export of Services Rules, 2005 and Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 are being amended so as to move some of the specified services from one category to another.
[The changes at S. No. (3) to (7) will come into effect from 01.04.2011]
- 8) A sub-rule (2A) is being inserted in rule 3 of the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 to provide that the credit of tax on input services of 'Erection, commissioning or installation', 'Commercial or industrial construction' and 'Construction of complex' services as available to a person providing 'Works contract service' shall be restricted to 40% of tax paid, when such tax has been paid on full value of the service after availment of Cenvat credit on inputs.
[The change at S. No. (8) will come into effect from 01.03.2011]

VI. AMENDMENTS IN ACT:

Chapter V of Finance Act, 1994 is being amended to,—

- 1) Omit sub-section (1A) of section 73 together with both the provisos to sub-section (2) of section. As a result, the benefit of reduction of penalty available in cases of fraud, collusion, etc. under proviso to section 73 (1A) shall not be available. Further, a new sub-section 4A is being inserted in section 73 to provide for reduced penalty in cases where during the course of audit, verification or investigation it is found that the transactions not reported to the department are available in the records or invoices. Moreover, penalty is being reduced to 1% per month of the tax amount upto a maximum of 25%.
- 2) Reduce the penalty for delayed payment under section 76 from 2% to 1% per month or Rs.100 per day, whichever is higher. Maximum penalty reduced to 50% of the tax amount.
- 3) Increase the maximum penalty under section 77 from Rs.5,000 to Rs.10,000.
- 4) Amend section 78 to revise the maximum penalty. Penalty will be hereafter mandatory and equal to tax evaded. Moreover, in situations covered under section 4A, the penalty shall be 50% of the tax amount. Further, the penalty is being reduced to 25% if the tax dues are paid within one month together with interest and reduced penalty. For assesseees having a turnover of upto Rs.60 lakh in any of the years covered in the show cause notice or in the preceding year, the period of one month shall be revised to 90 days.
- 5) Reduce interest rate by 3% for assesseees with a turnover of upto Rs.60 lakh, both under section 73B and section 75.
- 6) Increase the maximum penalty for delay in filing of return under section 70 from Rs.2000 to Rs.20000. However, the existing rate of penalty for the first 15 days and for the subsequent 15 days as well as the daily penalty of Rs.100 per day thereafter under rule 7C of the Service Tax Rules, 1994 are being retained without any change.
- 7) Amend the power to waive penalty under section 80. While penalties under section 76 and 77 are being retained, penalty under section 78 is being waived only in cases where the transactions are captured in the specified records.
- 8) Give power to issue search warrant under section 82 at the level of Joint Commissioner and the execution of such warrant at the level of Superintendent.
- 9) Make section 9A, 9AA, 9B, 9E, 34A and new section 35R of the Central Excise Act, 1944 applicable to service tax under Section 83.
- 10) A new section 88 is being inserted so as to create first charge on the property of the defaulter for recovery of service tax dues from such defaulter subject to provisions of section 529A of the Companies Act, the Recovery of Debt due to Bank and Financial Institution Act, 1993 and Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
- 11) Reintroduce the provisions relating to prosecution under section 89 as follows:
 - (i) The prosecution shall apply in the following situations:
 - (a) Provision of service without invoice;
 - (b) Availment and utilization of Cenvat credit without receipt of inputs or input services;
 - (c) Submitting false information; and
 - (d) Non-payment of collected amount of service tax for a period of more than six months.
 - (ii) The sanction for the prosecution will be granted at the level of Chief Commissioner.

The above changes will come into effect from a date to be notified after the enactment of the Finance Bill, 2011.

VII. POINT OF TAXATION RULES, 2011

The Point of Taxation Rules, 2011 have been framed and made effective from 01.04.2011. These rules determine the point in time when the services shall be deemed to be provided.