

# CENTRAL EXCISE & CUSTOMS

## SALIENT FEATURES OF BUDGETARY CHANGES

The salient features of the changes in respect of excise and customs duties are discussed below:

### CENTRAL EXCISE

#### 1. Rate structure

1.1 As a consequence of changes in the ad valorem rates of Central Excise duty for non-petroleum products on the 24th of February, 2009, a dual rate structure - with rates of 4% and 8% ad valorem was put in place. This rate structure for non-petroleum products has been retained but the rate of duty on several items attracting 4% has been restored to 8%. Among the important sectors/ items where such an increase has occurred are the manmade textile sector (the details of which are discussed in subsequent paras), ceramic tiles manufactured in a factory not using electricity for firing the kiln; plywood, flush doors and articles of wood; writing ink and other ink used in writing instruments; zip fasteners; and MP3/MP4 or MPEG4 players etc. On the other hand, the **major** items on which the 4% rate has been retained are:

- food items such as sugar confectionary, biscuits with retail price exceeding Rs.100/kg, cakes and pastries, sherbets, scented supari etc.;
- Paraxylene;
- drugs and pharmaceutical products of chapter 30;
- paper, paperboard and articles made therefrom;
- footwear of retail price exceeding Rs.250 per pair but not exceeding Rs.750 per pair;
- Pressure cookers
- power –driven pumps designed for handling water;
- water filtration/ purification equipment;
- specified textile machinery;
- compact fluorescent lamps (CFL) and vacuum and gas filled bulbs of retail price not exceeding Rs.20 per bulb; and
- medical equipment

These lists are not exhaustive and the relevant notifications/ Explanatory Notes may be referred to for details.

Consequent upon increase in excise duty rate from 4% to 8%, abatement rates have been revised suitably on items covered under RSP (Retail Sale price) based assessment. In this regard Notification No. 18/2009-CE (NT) dated 07.07.2009 is relevant.

#### 1.2 Textile and textile intermediates:

Broadly speaking, the excise duty regime applicable to textiles, manmade and natural, prior to the reductions made on the 7th of December, 2008 is being restored. The important changes in this sector are:

- i. In respect of cotton textiles, not containing any other material, the rate of duty has been enhanced from Nil to 4% on optional basis. Full exemption would now be available only if a manufacturer does not avail of Cenvat credit of the duty paid on inputs. If he does not fulfill this condition, he would be required to pay a duty of 4% ad valorem.
- ii. The rate of duty on manmade fibre and yarn has been enhanced from 4% to 8% on mandatory basis. Beyond the fibre/ yarn stage, the optional levy of 8% ad valorem has been restored (instead of the pre-budget rate of 4%).
- iii. Similarly, textile items manufactured from natural fibres other than cotton such as silk, wool, flax etc. would now bear an optional levy of 8% ad valorem instead of 4% beyond the fibre stage. The enhanced rate of 8% would also apply to blended fabrics and products.
- iv. Corresponding changes have also been made in the rates of duty applicable to Export Oriented Units (EOU) that use only indigenous raw materials when they make clearances of textile items into the Domestic Tariff Area (DTA).
- v. Full exemption from excise duty has been provided to tops manufactured from duty paid tow of manmade fibre using the tow-to-top process on the condition that the manufacturer availing of this exemption does not have the facility to manufacture tow in his factory.

vi. Excise duty on some important textile intermediates has also been enhanced from 4% to 8% ad valorem. These are:

- a. Polyester chips
- b. Di-methyl terephthalate (DMT)
- c. Pure Terephthalic Acid (PTA); and
- d. Acrylonitrile

As far as possible, the enhanced rates are being prescribed through the Tariff Schedule. In many cases, however, these rates have been prescribed by notification as the tariff rates are higher.

### 1.3 Packaged or canned software:

Partial exemption from excise duty has been provided to packaged or canned software so that the duty payable on that portion of the value which represents the consideration for the transfer of the right to use such software, is exempted. The benefit of the exemption is available to the manufacturer of such software when he declares to the Central Excise authorities that the right to use is transferred for commercial exploitation and fulfillment of some other conditions. The details are contained in notification no.22/2009-Central Excise dated 7th July, 2009. On the portion of the value which is exempted from excise duty, service tax will be leviable under the 'Information Technology Software Service'.

### 1.4 Automobiles:

There are two important changes in the excise duty rates applicable to automobiles:

- i. Excise duty on motor vehicles of headings 8702 and 8703 having engine capacity exceeding 1999cc, has been reduced from 20% + Rs.20,000 per unit to 20% + Rs.15,000 per unit.
- ii. Excise duty on petrol driven motor vehicles for transport of goods except dumpers of tariff item 8704 10 90 has been reduced from 20% to 8%. Excise duty on chassis of such petrol driven vehicles has also been reduced from 20% + Rs.10,000 per chassis to 8% + Rs.10,000 per chassis .

### 1.5 Petroleum:

The basic excise duty rates on MS/HSD intended for sale **with a brand name** have been converted from 'ad valorem + specific rate' to pure 'specific rate' as under:

S. No.	Item	From	To
1.	Motor Spirit	6% + Rs 5 per litre	Rs. 6.50 per litre
2.	HSD	6% + Rs 1.25 per litre	Rs. 2.75 per litre

Consequently petrol intended for sale with a brand name will attract total excise duty of Rs. 14.50 per litre while the total duty applicable to High Speed Diesel intended for sale with a brand name would be Rs 4.75 per litre. Other changes in respect of petroleum products are:

- i. Exemption from basic excise duty, additional duty of excise and special additional duty of excise has been provided to High speed diesel oil blended with bio-diesels, up to 20% by volume, provided both HSD and bio-diesel have paid the appropriate duty of excise.
- ii. Excise duty rate on special boiling point spirits falling under tariff items 27101111, 27101112 and 27101113 has been reduced to 14%. Excise duty rate on Naphtha falling under heading 2710 has also been reduced to 14%.

### 1.6 Other Concessions:

The following concessions/ changes have also been made:

- i. Full exemption from excise duty has been provided to goods falling under Chapter 68 manufactured at the site of construction for use in construction work at such site.
- ii. Recorded smart card and tags are exempt from excise duty. A condition has been added to this exemption so that it would be available only if the manufacturer does not avail of Cenvat credit of the duty paid on inputs for these goods.
- iii. Articles of jewellery on which brand name or trade name is indelibly affixed or embossed (branded jewellery), have been fully exempted from excise duty.

iv. Full exemption has also been provided to EVA compound manufactured on job-work basis for further manufacture of footwear.

### **1.7 SSI Exemption:**

There is no change either in the exemption limit or the eligibility limit for the small scale exemption. Under para 4(e) of Notification No. 8/2003-CE dated 01.03.2003, specified items that are in the nature of packaging material are excluded from the purview of the brand name restriction. One more item viz. 'printed laminated rolls' has been added to this list with immediate effect. As a consequence, manufacturers of printed laminated rolls bearing the brand name of another person and fulfilling the conditions of the notification would be entitled to full exemption from excise duty for their first clearances of this item (for home consumption) not exceeding Rs. 150 lakh during the remaining part of this financial year i.e. 2009-10.

### **2. Important Legislative amendments:**

The highlights of the legislative amendments in the Central Excise Act and the First Schedule to the Central Excise Tariff Act are as under:

- i. In respect of 'betel nut product known as supari', it is being prescribed that the process of adding or mixing certain ingredients to betel nut in any form would be a process amounting to manufacture. For this purpose, note 6 is being inserted in Chapter 21 of the Schedule. A corresponding note is being inserted in Chapter 8 so as to exclude this product from its purview. These changes come into immediate effect under the Provisional Collection of Taxes Act, 1931.
- ii. In the case of tariff item 5801 2210, columns (3) and (4) of the Schedule, unit and rate of duty of 8% have been inserted in column (3) and (4) respectively, with immediate effect.
- iii. Section 9A (2) of the Central Excise Act has been amended so as to exclude certain types of offences and circumstances from the purview of the compounding provisions.
- iv. Sections 14A and 14AA have been amended to provide that the Chief Commissioner may also nominate Chartered Accountants for conducting special audits under these provisions.
- v. Section 23A has been amended to prescribe that the Authority for Advance Rulings authorized under section 28F of the Customs Act would be competent to deal with cases under the Central Excise Act as well.
- vi. Sections 35G and 35H have been amended to empower High Courts to condone delay in the filing of appeals as well as the memorandum of cross objections where it is satisfied that there was sufficient cause for delay.
- vii. Three notifications viz. notification Nos. 33/1997-Central Excise [N.T.], dated 01.08.1997, 44/1997-Central Excise [N.T.], dated 30.08.1997 and 7/1998-Central Excise [N.T.], dated 10.03.1998 issued under the provisions of the compounded levy scheme for steel induction furnace units and re-rolling mills (Rules 96ZO and 96 ZP) are being amended with retrospective effect so as to regularize fixation of rates of duty under these notifications.
- viii. Rule 6(3) Cenvat Credit Rules, 2004 has been amended to prescribe that a manufacturer of both dutiable and exempted goods, who does not maintain separate accounts of inputs, shall now pay an amount equal to 5% of the total price of exempted goods.
- ix. Rule (2) of Cenvat Credit Rules, 2004 has been amended to clarify that 'input' should not include cement, angles, channels, CTD/TMT bars etc. used for construction of shed, building or structure for support of capital goods.
- x. The Central Excise Rules, 2002 have been amended to provide that seized records that have not been relied upon should be returned to the party within 30 days of issue of a show cause notice.

## CUSTOMS

### 1. Rate Structure:

1.1 There is no change in the overall rate structure of customs duties. As such, the peak rate for industrial goods has been retained at 10% and the major ad valorem rates of 5% and 7.5% have also been retained. Changes in the rate of duty on specific items are discussed in subsequent paras.

### 1.2. Precious Metals

Rates of basic customs duty on gold and silver have been increased as under: -

S. No.	Item	From	To
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 gm	Rs. 200 per 10 gm
2.	Gold in any form (other than those specified, against S. No. 1)	Rs. 250 per 10 gm	Rs. 500 per 10 gm
3.	Silver in any form	Rs. 500 per Kg	Rs. 1,000 per Kg

The revised rates shall also apply to gold and silver including gold/silver ornaments (excluding ornaments studded with stones or pearls) imported as baggage.

### 1.3. Capital Goods:

1.3.1 Concessional rate of basic customs duty of 5% was earlier available to specified plantation machinery till 30.04.2009. This concessional rate of 5% has now been restored for one more year i.e. upto 06.07.2010.

1.3.2 Basic customs duty on 'mechanical harvester' for coffee plantation has been reduced from 7.5% to 5%. Such harvesters have also been exempted from CVD by way of excise duty exemption.

1.3.3 Basic customs duty on permanent magnets for manufacture of PM synchronous generators above 500KW for use in wind operated electricity generators has been reduced from 7.5% to 5%.

### 1.4 Export Promotion:

1.4.1 Full exemption from customs duty presently available to specified raw materials/inputs imported by manufacturer-exporters of sports goods has been extended to five additional items.

1.4.2 Similarly, full exemption from customs duty is presently available to specified raw materials and equipment imported by manufacturer-exporters of leather goods, textile products, and footwear industry. The list of such items has been expanded by including additional items.

1.4.3 Basic customs duty on unworked corals has been reduced from 5% to Nil.

### 1.5 Electronic industry:

1.5.1 Full exemption from basic customs duty available to set-top boxes has been withdrawn. They will now attract basic duty of 5%.

1.5.2 Basic customs duty on LCD panels for manufacture of LCD televisions has been reduced from 10% to 5%.

1.5.3 Full exemption from 4% special CVD on parts for manufacture of mobile phones and accessories has been reintroduced for one year i.e. upto 06.07.2010.

### 1.6 Drugs and Medical Devices:

1.6.1 Basic customs duty on nine specified drugs and bulk drugs for their manufacture, and one vaccine has been reduced from 10% to 5%. CVD on these items would also be exempted by virtue of full exemption from excise duty.

1.6.2 Basic 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. Similarly, basic 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.

### 1.7 Textiles:

Basic customs duty on cotton waste and wool waste has been reduced from 15% to 10%.

### 1.8 Miscellaneous:

1.8.1 Basic customs duty on rock phosphate has been reduced from 5% to 2%.

1.8.2 CVD exemption on Aerial Passenger Ropeway Projects has been withdrawn. Such projects will now attract applicable CVD.

1.8.3 Basic customs duty exemption on "concrete batching plants of capacity 50 cum per hour or more" available by virtue of exemption on specified machinery for construction of roads has been withdrawn. Such plants will now attract basic duty of 7.5%.

1.8.4 Basic customs duty on inflatable rafts, snow-skis, water skis, surf-boats, sail-boards and other water sports equipment has been fully exempted.

1.8.5 Basic customs duty on bio-diesel has been reduced from 7.5% to 2.5%

## **1.9 IT Software**

On packaged or canned software, CVD exemption has been provided on the portion of the value which represents the consideration for transfer of the right to use such software, subject to specified conditions. This portion of the value is leviable to service tax as 'Information Technology Software Service'. Although, the CVD exemption has not been made conditional upon the payment of service tax, it is requested that a mechanism be put in place to ensure regular exchange of information on details of importers availing of the exemption between the customs and service tax formations so that, where necessary, action for recovery of service tax may be taken.

## **2. Important Legislative amendments:**

The major changes in the Customs Act and Customs Tariff Act are discussed below:

i. Section 26A has been inserted in the Customs Act to provide for refund of import duty paid on imported goods if they are found to be defective or not conforming to the specifications agreed upon between the importer and the seller, subject to certain conditions.

ii. 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.

iii. 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.

iv. Section 137 of the Customs Act has been amended to exclude certain types of offences and circumstances from the purview of compounding provisions.

v. Section 3 of the Customs Tariff Act has been amended so as to provide that where the Central Government has fixed tariff value for collection of central excise duty on an article produced or manufactured in India, the value of a like imported article for the purpose of charging additional duty shall be such tariff value.

vi. Sections 8B, 8C, 9 and 9A of the Customs Tariff Act, 1975 have been amended retrospectively so as to extend the machinery provisions of the Customs Act to the duties levied under these provisions.

vii. Sub-section (6A) has been inserted in section 9A of the Customs Tariff Act so as to provide that the margin of dumping in relation to an article exported by an exporter or producer shall be determined on the basis of records maintained by such exporter or producer and on the basis of information available in the case of non-cooperating exporter or producer.

viii. Para (A) in Note 2 of Section XI of the Customs Tariff Act has been amended so as to align it with the parallel provision in the Central Excise Tariff Act.

ix. Notification No. 40/2006-Customs dated 01.05.2006 is sought to be 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 to carry out other related changes.

x. Notification No. 27/2009-Customs (NT) dated 17.03.2009 appointing officers of DGCEI as officers of customs with all India jurisdiction is sought to be given retrospective effect from 09.05.2000.

\*\*\*\*\*