

Union Budget 2010-11

CENTRAL EXCISE

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1) GOODS & SERVICE TAX

The Finance Minister in his speech stated that the GST may be implemented from the FY 2011-12. Keeping in this view, the rate of Excise Duty is enhanced from the present 8% to 10%. The rate of Excise Duty is kept in line with the rate of Service tax i.e. 10% so that there will be a common rate applicable for goods and services when the GST is being implemented.

2) CHANGES MADE w.e.f. 27th FEBRUARY 2010-02

a) Increase in excise duty from 8% to 10% for major chapters. Some of the products are as follows:

b) There is no change in the rate of Education cesses.

c) Credit on the stock with the trader as on 26th February 2010.

Many of the first stage and second stage dealer who have stock as on 26th February may sell the product subsequent to 27th February 2010. These products have borne the duty @ 8% plus cesses. The traders will be able to pass credit @ 8.24% to the customers who purchase the input after 26th February 2010 i.e. duty at the rate of 8.24% paid on the inputs and not at 10.3%

d) In view of the increase in the rate, the manufacturer can clear the final product which is in stock in the factory as on 26th February 2010 at the rate of 10% plus the education cesses. The basic excise duty has been increased and it is not a new levy. Therefore, the increase rate will apply even to the stock as on 26th February 2010.

e) The manufacturer is advised to put the relevant notification number in the excise invoice prepared from 27th February 2010. The relevant notification for increasing the rate from 8% to 10% is 2/2008 dated 1.3.2008 as amended.

3) NEW LEVY:

a) Slabs or Tiles falling under chapter heading 6802 & 6810:

A deemed manufacture provision has been inserted for tiles under chapter 6802 & 6810. The process of cutting or sawing or sizing or polishing or any other process, for converting of stone blocks into slabs or tiles shall amount to manufacture”

Therefore, the duty is to be paid for above goods as per the deemed manufacture provision and the SSI benefit is also available for above goods.

b) Drawing or Redrawing of aluminium tubes and pipes for chapter heading 7608:

A deemed manufacture provision has been inserted for aluminium tubes and pipes falling under chapter 7608. The process of drawing or redrawing shall amount to manufacture. Therefore, the duty is to be paid for above goods as per the deemed manufacture provision and the SSI benefit is also available for above goods.

c) Clean Energy Cess:

A levy of cess known as Clean Energy Cess being introduced on coal, lignite and peat produced in India. It will be levied and collected as a duty of excise from coal mines. The rate of duty, rules and procedure for its collection will be notified after the enactment of the Finance Bill, 2010.

4) Amendment in the notification 5/2006 for refund claims of the Cenvat credit for Exporters:

There is lot of delay account of refund claims under notification no. 5/2006-CE (NT) on account of difference in perception of the notification with Rule 5 of Cenvat credit rule. Circular No. 120/01/2010-ST dated 19th January, 2010 has been given legal backing which will lead to fasten the refund procedure, certain amendment have been introduced which have retrospective effect and certain which have prospective effect.

Amendment with retrospective effect:

1. The definitions of terms such as 'inputs'/ 'input services' used in the above notification has been changed to the aligned with Cenvat Credit Rules and clarify that not only input or input services used in export of goods or services but also goods or services used in relation to manufacture of final product or output services exported shall be eligible for refund.

2. The illustration given in condition 5 of the Appendix to the Notification has been deleted. This ensures that refund of CENVAT credit which has been availed in the period prior to the quarter/ period for which the refund has been claimed is also eligible for refund.

Amendment with prospective effect:

The Form A has been changed and new table has been inserted by deleting conditions A and B of such form vide notification 7/2010.

The information contained in the said table shall be certified by a person authorized by the Board of Directors or proprietor or any partner if the refund claim is less than Rs 5Lakhs. In case the refund claim is more than Rs 5lakhs than information contained in such table should also be certified by the Tax Auditor or Statutory auditor.

5) CHANGES MADE w.e.f. 1st APRIL 2010

A) CHANGES FOR SSI UNITS HAVING AGGREGATE VALUE OF CLEARANCE BELOW 4 CRORES

a) Duty to be paid on quarterly basis:

The goods cleared during the quarter of the financial year, the duty shall be paid by 6th of the month following the quarter, if the duty is paid electronically through Internet banking and in any other case, by the 5th of the month following the quarter. For instance, the goods cleared during the quarter April 2010 to June 2010, the duty is to be paid by 5th / 6th July 2010. The goods cleared during the last quarter i.e. January 2011 to March 2011, the duty is to be paid by 31st March 2011.

b) FULL CREDIT ELIGIBLE FOR CAPITAL GOODS IN THE YEAR OF RECEIPT OF CAPITAL GOODS.

From 1st April 2010, the SSI is eligible to avail full 100% credit for capital goods in the year of receipt of capital goods.

c) Filing of Quarterly Return:

The ER-3 return is to be filed on quarterly basis within ten days after the end of the quarter. The clarification is provided in the rule in case the assessee avail the benefit of SSI notification, the ER-3 return is to be filed on quarterly basis for that whole year.

B) Changes effective from 1st April, 2010

a) Extension of non-applicability of Rule 6(6) for three more supplies:

The assessee avail the credit on input and input services used in or in relation to the manufacturing of dutiable and exempted goods, then, the assessee is required to pay an amount @5% on the value of exempted goods. Now, from 1st April, the assessee is not required to pay the amount @5% on the value of exempted goods for the following supplies.

(i) The goods which are exempted from custom duty and CVD when imported in India and are supplied:

a) against International Competitive Bidding

b) to a power project from which power supply has been tied up through tariff based competitive bidding

c) to a power project awarded to a developer through tariff based competitive bidding.

b) The Cenvat Credit Rules has been amended to provide that the manufacturer will be eligible to credit in respect of jigs, fixture, moulds and ties sent outside the factory to

a) another manufacturer for the production of goods or

b) job worker for the production of goods

according to his specification. The credit is not required to be reversed even though the above items are not available in the factory i.e. available with another manufacturer or job worker

c) Relaxation to the requirement of pre-authentication of invoices.

The rule for authentication each foil of the excise invoice has been deleted. Therefore, there is no requirement to authenticate the invoice book.

d) New depreciation rate given for computers and computer peripherals cleared after use.

Earlier, when the capital goods cleared after use, the amount equal to the credit taken as reduced by 2.5% per quarter as payable on removal. Now, the rule clarified that the duty reversal calculation is to be made by straight line method. The new rate of depreciation for computer and computer peripherals, which are as follows:

For each quarter in the first year 10%

For each quarter in the second year 8%

For each quarter in the third year 5%

For each quarter in the fourth and fifth year 1%

The manner of determining the amount to be reversed for other capital goods is same as earlier.

C) Change effective from the date of enactment of the Finance Act.

a) The section 11A (2B) has been amended that no penalty under any of the provisions of this Act or the rule made thereunder shall be imposed in respect of duty paid under this sub-section.

b) The power has been given to Central Government under Section 37 to make rules for “provide for withdrawal of facilities or imposition of restriction (including restriction on utilisation of cenvat credit) on manufacturer or exporter or suspension of registration of dealer, for dealing with evasion of duty or misuse of Cenvat Credit”

c) The Settlement Commission has been empowered to admit the cases in which manufacturer has not maintained proper records of production and clearance.

d) Changes on levies under Medical & Toilet Preparation Act.

i) Section 3 of the M &TP Act, 1955, is amended to exclude goods manufactured in a special economic zone.

ii) Excise duty on medical and toilet preparation cover under M & TP Act, 1955, is being reduced from 16% to 10%.

iii) The rate of abatement on toilet preparation covered under M& TP Act, 1955 is revised from 40% to 35%

D) Cenvat Credit: Rule 57CC, 57AD & Rule 6 of Central Excise Rules, 2001 and rule 6 of Cenvat Credit Rules 2004 are proposed to be amended retrospectively to provide option to the manufacturer to pay an amount of credit attributable to use of input or input services in the manufacture of exempted goods along with interest of 24%. On payment of such amount demand raised in show cause notice will be set aside.

CUSTOMS

A) No change in Peak Rate. There is no change in maximum basic rate of customs duties. It remains @ 10%.

B) Changes in duty rates of major items as applicable w.e.f 27th Feb 2010 are as follows:

Crude Petroleum Nil to 5%

Petrol & diesel 2.5% to 7.5%

Platinum Rs.200 per 10 gram to Rs.300 per 10 gram

Gold bars (other than tola bars) & gold coins* Rs.200 per 10 gms to Rs.300 per 10 gms

Other form of gold* Rs.500 per 10 gms to Rs.750 10 gms per

Silver Rs.1,000 per kg to Rs.1,500 per kg

* -Applicable even if imported as personal baggage.

C) Electrical energy is classified under customs tariff entry No. 27160000 and attracts nil rate of basic customs duty from 26-6-09. In this budget levy of customs duty of 16% for sale of electrical energy from SEZ to DTA and non-processing areas of the SEZ. The tax is being levied from retrospective effect from 26-6-2009.

D) Project Imports:

(a) Following projects classified under 9801 will now attract c.v.d @ 10% (earlier 8%)

(i) Fertilizer project

(ii) Coal mining project

(iii) Power generation project

(iv) Power transmission project

(b) Following four projects are being notified to provide concession under Project Imports @ 5% basic customs duty.

(i) Cold Storage, cold room (including farm pre-coolers) or Industrial projects for preservation, storage or processing of agricultural, apiary, horticultural, dairy, poultry, aquatic & marine produce and meat

(ii) Project for installation of mechanized handling system and pallet racking systems in mandis or warehouses for food grains and sugar

(iii) Mono Rail Projects for urban public transport; &

(iv) Setting up of Digital Head End

E) Exemptions w.e.f 27th Feb 2010

(i) Goods imported in pre-packed form for retail sale requiring declaration of MRP under Standards of Weights & Measures Act is exempted from payment of 4% SAD. This exemption is available to Mobile Phones, Watches & Readymade garments. Prior to this date the importer had the option to claim refund of SAD under notification No. 102/07-Cus if central sales tax/ VAT has been paid at the time of sale.

(ii) Value of commercial sample being imported as personal baggage is increased from Rs.1 lakh to Rs. 3 lakhs.

F) Changes in statutory provisions effective from date of enactment of Finance Act, 2010

(i) Section 3 is being amended to charge c.v.d. based on MRP minus abatement for the goods chargeable to excise duty on the basis MRP under M & TP Act, 1955

(ii) Section 127 is amended on the lines of Central Excise to expand the scope of cases which can be admitted by Settlement Commission.