

EXCISE

Note :- (a) SED means Special Excise duty.

(b) AED (GSI) means Additional Excise Duty (Goods of Special Importance) Act.

Major Proposals about Central Excise duty are the following :

A. SURCHARGE ON PAN MASALA AND TOBACCO PRODUCTS:

An additional excise duty, by way of surcharge, is being levied on pan masala and certain specified tobacco products to finance the National Rural Health Mission. This additional duty will be charged at prescribed specific rates on cigarettes, and at a rate equal to 10% of the aggregate of normal rates of excise duties payable on pan masala and other tobacco products. This surcharge has not been levied on biris.

B. IMPOSITION AND INCREASE IN DUTY:

(I) Imposition

- 1) Excise duty of 8% with CENVAT credit has been imposed on mosaic tiles. SSI exemption is available.
- 2) Excise duty of 16% has been imposed on road tractors (of engine capacity more than 1800 cc) for road trailers.
- 3) Excise duty of 2% has been imposed on branded articles of jewellery. The process of affixing or embossing the brand or trade name on the article of jewellery shall amount to 'manufacture'.

(II) Excise duty has been raised on iron and steel of chapter 72 from 12% to 16%.

(III) Excise duty has been raised on ships for breaking up from 12% to 16%.

(IV) Excise duty on molasses has been increased from Rs.500 per metric tonne to Rs.1000 per metric tonne.

C. RELIEF MEASURES:

- 1) Excise duty has been reduced from 24% to 16% on air conditioners.
- 2) Excise duty has been reduced from 24% to 16% on tyres, tubes and flaps.
- 3) Excise duty has been reduced from 16% to 12% (with Cenvat credit) on matches made by mechanized and semi-mechanized sectors.
- 4) Excise duty on imitation jewellery has been reduced from 16% to 8%.
- 5) Excise duty has been reduced from 16% to 8% on cakes and pastries.

D. AGRICULTURE AND FOOD PROCESSING:

- 1) Excise duty of Re. 1 per kg. on refined edible oils and Rs.1.25 per kg. on vanaspati, bakery shortening and inter-esterfied, re-esterfied, elaidinised fats, has been exempted.
- 2) Tea and tea waste have been exempted from additional duty of excise of Re. 1 per kg.
- 3) Parts manufactured and used captively for production of power tillers (of heading No. 84.32) have been exempted from excise duty.
- 4) Excise duty on electronic milk fat and solid non-fat tester has been reduced from 16% to 8%.

E. TEXTILES:

- 1) Excise duty on polyester filament yarn (PFY), including polyester textured yarns has been reduced from 24% to 16%.
- 2) Optional duty has been prescribed for processed filament yarns (including polyester filament yarn) manufactured from yarn procured from outside by independent processors. Such yarn would either attract Nil excise duty without availment of Cenvat credit or pay 8% excise duty with Cenvat credit.

F. SMALL SCALE INDUSTRY:

- 1) The value of clearances in the preceding financial year, for determining eligibility for the exemption, is being increased from Rs.3 crore to Rs. 4 crore.
- 2) Exemption scheme, which provides for a concessional rate of 60% of normal rate with Cenvat credit upto clearances of Rs. 1 crore (notification No. 9/2003-CE), is being withdrawn.

These changes will come into effect from 1st April, 2005.

G. PETROLEUM:

- 1) Basic excise duty rates on certain petroleum products has been revised as under:

	From	To
(a) Petrol	23%	8% +Rs.5.00/litre
(b) Diesel	8%	8% +Rs.1.25/litre
(c) Kerosene for public distribution	12%	Nil
(d) LPG for domestic use	8%	Nil
(e) Light Diesel Oil	16% +Rs.1.50/litre	16% +Rs.2.50/litre

- 2) Additional duty of excise on motor spirit and high speed diesel oil has been increased from Re.1.50 per litre to Rs.2 per litre. This amount goes to Central Road Fund.
- 3) There is no change in special additional excise duty of Rs.6.00 per litre on motor spirit.

H. NATIONAL CALAMITY CONTINGENT DUTY (NCCD):

For replenishment of the National Calamity Contingent Fund, duty on following items was imposed by the Finance Act 2003:

- 1) 1% on polyester filament yarn, motor cars, multiutility vehicles, and two-wheelers;
- 2) Rs.50 per metric tonne on domestic crude oil.

This levy was valid for one year (upto 29.2.2004) and subsequently was extended upto 31.3.2005. It is proposed to extend this levy without any time limit.

I. MISCELLANEOUS:

- 1) Excise duty exemption available to wind operated electricity generators and parts has been extended to cover rotor and wind turbine controller.
- 2) Excise duty on cement clinkers has been increased from Rs.250 per metric tonne to Rs.350 per metric tonne.

J. RETAIL SALE PRICE (RSP) BASED ASSESSMENT:

Abatement from retail price for levy of excise duty on air conditioners has been reduced from 35% to 30%, consequent to reduction in excise duty from 24% to 16%.

K. Amendments in Customs and Central Excise Act and Rules:

- 1) The First Schedule of the Central Excise Tariff Act is being amended retrospectively with effect from 1st March, 1986 so as to provide that in relation to refined vegetable edible oils (of headings 1502 and 1503), the process of refining amounts to manufacture.
- 2) Notification No. 88/88-CE is being amended with retrospective effect from 21st February, 2000 to 28th February, 2003 so as to provide that the present definition of 'rural area' is made applicable from 21st February, 2000.
- 3) Rule 57CC, Rule 57AD of the Central Excise Rules and Rule 6 of the CENVAT Credit Rules are being amended retrospectively to provide a mechanism for recovery of amount due from a manufacturer when he is required to pay an amount of 8% or 10%, on his exempted clearances because of his failure to maintain separate account for common inputs used in both exempted and dutiable products. It is proposed to give retrospective effect to this provision with effect from 1st August, 1996.
- 4) Sections 128 and 157 and the Fourth Schedule of Finance Act, 2003 are being omitted consequent to exemption from the additional duty on tea.
- 5) Finance (No.2) Act, 2004 is being amended so as to prescribe a scheme for recovery of credit of AED(GSI) paid prior to 1st April, 2000 utilized for payment of CENVAT duty, along with interest.
- 6) Section 5A of the Central Excise Act, is being amended so as to provide that if any excisable good is exempted from duty of excise absolutely, the manufacturer of such goods will be bound to avail of the exemption.
- 7) Section 23A of the Central Excise Act is being amended so as to allow an existing Joint Venture in India to avail of the benefit of Advance Ruling. The Central Government is also being empowered to notify any class or category of persons as eligible for availing of the benefit of Advance Ruling.
- 8) Section 32PA of the Central Excise Act, 1944 is being amended so as to make a provision for sending back a case by the Settlement Commission to the Tribunal in the event of non-cooperation by the applicant.
- 9) The power of the Central Board of Excise and Customs (CBEC) to review orders passed by Commissioner of Central Excise is being vested in a Committee of two Chief Commissioners as may be notified by the CBEC. Similarly, the power of the Commissioner to review the orders of Commissioner (Appeal) is being vested in a Committee of two Chief Commissioners of Central Excise. For this purpose suitable amendments are being made in sections 35A, 35B and 35E of the Central Excise Act.
- 10) CENVAT Credit rules have been amended so as to provide that credit of Additional Excise Duty, on pan masala and certain tobacco products (by way of surcharge) would be available for utilization of payment of this Additional excise duty only. Credit of no other duty can be utilized for paying this Additional excise duty.
- 11) The Schedule under the Additional Duties of Excise (Goods of Special Importance) Act, 1957 is being amended so as to align the entries with the new Excise Schedule introduced in the Central Excise Tariff (Amendment) Act, 2005.
- 12) The Schedule under the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 is being amended so as to align the entries with the new Excise Schedule introduced by the Central Excise Tariff (Amendment) Act, 2005.
- 13) The Third Schedule under the Central Excise Act, 1944 is being amended so as to align the entries with the new Excise Schedule introduced by the Central Excise Tariff (Amendment) Act, 2005.
- 14) The Seventh Schedule under the Finance Act, 2001 is being amended so as to align the entries with the new Excise Schedule introduced by the Central Excise Tariff (Amendment) Act, 2005.
- 15) Sections 28E and 28H of the Customs Act, 1962 are being amended so as to provide that advance ruling may also be sought in respect of determination of Rules of Origin of goods and matters relating thereto. It is also proposed to allow an existing Joint Venture in India to avail the benefit of Advance Ruling. The Central Government is also being empowered to notify any class or category of persons as eligible for availing of the benefit of Advance Ruling.
- 16) Section 28F of the Customs Act, 1962, is being amended so as to rename "Authority for Advance Ruling" as "Authority for Advance Ruling (Customs, Central Excise and Service Tax)".
- 17) Section 127MA of the Customs Act, 1962 is being amended so as to make a provision for sending back a case by the Settlement Commission to the Tribunal in the event of non-cooperation by the applicant

- 18) The power of the Central Board of Excise and Customs (CBEC) to review orders passed by Commissioner of Customs is being vested in a Committee of two Chief Commissioners as may be notified by the CBEC. Similarly, the power of the Commissioner to review the orders of Commissioner (Appeals) is being vested in a Committee of two Chief Commissioners of Customs. For this purpose suitable amendments are being made in section 128A, 129A and 129D of the Customs Act.

L. AMENDMENTS IN OTHER ACTS:

- 1) Central Road Fund Act, 2000 is being amended so as to earmark the revenue collected, from the increase of Additional Duty of Excise on motor spirit and high speed diesel oil from Re.1.50 per litre to Rs.2 per litre, for the maintenance and development of National Highways.
- 2) Central Sales Tax Act, 1956 is being amended so as to:-
 - (a) provide for deductions to be made from total consideration in respect of Works Contracts to arrive at the sale price on which Central Sales Tax is to be levied.
 - (b) include VAT legislations of the States within the ambit of the definition of "sales tax law" and "general sales tax law" under the Central Sales Tax Act, 1956.
 - (c) define the expression "works contract".
 - (d) make submission of Form 'H' compulsory to enjoy the benefit under Section 5(3) of the Central Sales Tax Act, 1956.
 - (e) empower the Central Government to make rules relating to the manner of determination of sale price and to prescribe the deductions to be allowed from the total consideration for a "Works Contracts".
 - (f) provide for exemption from Central Sales Tax on sale of goods made in the course of inter-State trade or commerce, to officials, personnel, consulars or diplomatic agents of any diplomatic mission/consulate or United Nations Organization (UNO) and other similar international bodies.
 - (g) declare sale of Aviation Turbine Fuel to any designated Indian carrier for its international flight as deemed export. This would enable designated Indian carriers to purchase Aviation Turbine Fuel for their international flights without payment of sales tax.
- 3) **Indian Stamp Act, 1899:** It has been decided to segregate ownership from management and governance of stock exchanges by converting the stock exchanges into corporatised and demutualised entity. During this process of conversion, there will be a notional transfer of the assets of the existing mutualised stock exchanges when these are converted into demutualised stock exchanges. In order to provide that this process of transformation through the scheme of corporatisation and demutualisation and related instruments relating to the scheme are not liable to stamp duty, Indian Stamp Act is being amended, so as to keep the whole process tax-neutral vis-à-vis stamp duties.

SERVICE TAX

(I) EXEMPTION FROM SERVICE TAX:

- (a) An exemption scheme for small service providers has been prescribed. Service providers whose aggregate value of taxable services provided during the preceding financial year was upto Rs. 4 lakhs, have been exempted from service tax upto an aggregate value of taxable services of Rs. 4 lakhs in a financial year. The proposed exemption scheme would be applicable from 1st April 2005.
- (b) Exemption has been provided from service tax on business auxiliary service, to a person producing/processing goods, from the inputs received from a manufacturer and sending the resultant product to the same manufacturer for further manufacture of final products, which are cleared on payment of excise duty. The above change will come into effect immediately.

(II) SERVICE TAX @ 10% IS BEING IMPOSED ON THE FOLLOWING SERVICES:

- 1) Transport of goods through pipeline or other conduit;
- 2) Site preparation and clearance, excavation, earth moving and demolition services, other than those provided to agriculture, irrigation and watershed development;
- 3) Dredging services of rivers, ports, harbours, backwaters and estuaries;
- 4) Survey and map making other than by Government Departments;
- 5) Cleaning services other than in relation to agriculture, horticulture, animal husbandry or dairying;
- 6) Membership of clubs or associations;
- 7) Packaging services;
- 8) Mailing list compilation and mailing; and
- 9) Construction of residential complexes having more than twelve residential houses or apartments together with common areas and other appurtenances.

The above changes will come into effect from a date to be notified after the enactment of the Finance Bill, 2005.

(III) SCOPE OF CERTAIN EXISTING SERVICES IS BEING EXTENDED AS FOLLOWS:

- (1) Commercial or industrial construction service to:
 - (i) include renovation of such building or civil structure;

- (ii) include post construction completion and finishing services for such building or civil structure;
- (iii) include construction, repair, alteration, renovation or restoration of pipeline or conduits;
- (2) Erection, commissioning or installation services to include specified installation services.
- (3) Maintenance or repair services to include:
 - (a) maintenance or management of immovable properties.
 - (b) maintenance or repair including reconditioning or restoration undertaken as part of any contract or agreement.
- (4) Broadcasting services to include charges recovered by broadcasting agencies from multisystem operator (MSO) and provision of direct to home (DTH) signals to the customers.
- (5) Sound recording to include recording of sound on any media and includes post production services such as sound mixing or re-mixing.
- (6) Video-tape production to include recording of any programme, event or function on any media and includes post production services.
- (7) Taxable services provided by authorised service station to include reconditioning or restoration of motor-cars, two-wheeled and light motor vehicles;
- (8) Beauty parlours service to include all services provided by beauty parlours;
- (9) Manpower recruitment service to include supply of manpower, temporary or otherwise.
- (10) The franchisee service to cover all agreements by which, the franchisor grants representational rights to franchisee to sell or manufacture goods or provide services identified with the franchisor;
- (11) Business Auxiliary Service to include production or processing of goods for or on behalf of the client;
- (12) Outdoor catering service, to include catering from a place or premises provided, by way of tenancy or otherwise, by the person receiving such services.

The above changes will come into effect from a date to be notified after the enactment of the Finance Bill, 2005.

(IV) AMENDMENTS IN ACT AND RULES:

(1) The Finance Act, 1994 is being amended to:-

- (a) extend the scope of 'taxable services' so as to include the 'services to be provided' and to clarify that taxable services would include such services provided from outside India to a recipient in India [Section 65(105)];
- (b) clarify that payments received, before, during, or after the provision of taxable service, would form part of gross amount for charging service tax (Section 67);
- (c) incorporate enabling provisions for registration and filing of return by persons or class of persons other than person liable to pay service tax (Section 69 and 70);
- (d) extend the powers to issue show cause notice and determine the amount of short levy to a Central Excise Officer (Section 73). Consequential changes have also been made in sections 74, 78, 84, 85 and 86;
- (e) make provisions regarding powers of adjudication and adjudication procedures of service tax cases;
- (f) allow an existing Joint Venture in India to avail the benefit of Advance Ruling. The Central Government is also being empowered to notify any class or category of persons as eligible for availing of the benefit of Advance Ruling (Section 96A).

The change specified in 1(a) above will come into effect from a date to be notified after the enactment of the Finance Act, 2005. The other changes mentioned above will come into effect on the date of enactment of Finance Act, 2005.

(2) The Service Tax Rules are being amended so as to:-

- (a) prescribe that the invoice is to be issued within 14 days from date of completion of provision of service or receipt of payment, whichever is earlier [Rule 4A(1)];
- (b) prescribe that due date for service tax payment by all service tax assesseees would be 5th of the following month or quarter, as the case may be (Rule 6);
- (c) enable centralized registration of more than one premises (Rule 4);
- (d) prescribe that liability of payment of service tax on business auxiliary services provided by the distributors of mutual funds will be on the recipient of service, namely, mutual funds (Rule 2).

The above changes will be effective for services rendered on or after 1st April, 2005.