

# *Union Budget 2016 – A Detailed Analysis*



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## KEY TAKEAWAYS

- Levy of Krishi Kalyan Cess at 0.5% of value of taxable services w.e.f. June 1, 2016. Credit of cess available.
- Interest rate is harmonized to 15% in respect of indirect taxes, except where Service Tax is collected and not remitted to Government, where the rate will be 24%.
- Setting of additional benches of the CESTAT in 11 locations.
- Rationalization of applicability of Service Tax/Excise Duty/CVD on software.
- New Baggage Rules introduced wherein duty free allowances increased
- New modality prescribed for ascertaining eligibility of CENVAT credit where both exempt and non-exempt activities are undertaken.
- Changes introduced to overcome the impact of various judicial pronouncements.
- Focus on reduction/minimization of tax litigation.
- Promoting ‘Make in India’ and ‘Ease of doing Business’.

## EFFECTIVE DATES

Particulars	Effective Date of Change
Legislative changes in Customs and Excise	Date of enactment of Finance Bill, 2016, unless otherwise
Change in rates of Customs Duty	March 01, 2016, unless otherwise specified
Change in rates of Excise Duty	March 01, 2016, unless otherwise specified
Levy of Krishi Kalyan Cess (Service Tax)	June 01, 2016
Amendments to CENVAT Credit Rules, 2004 (Other than those specified in the relevant Notifications)	April 01, 2016, unless otherwise specified

## SERVICE TAX

### Legislative changes

*(Effective from date of enactment of Finance Bill, 2016)*

- Levy of Krishi Kalyan Cess at 0.5% of value of taxable services w.e.f. June 1, 2016



Krishi Kalyan Cess is creditable unlike Swachh Bharat Cess. The aggregate Service Tax rate w.e.f. June 01, 2016 would be 15%.

- Service by way of assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof inserted as a new entry in declared service



This change has reaffirmed the position taken by Karnataka High Court in the matter of **Bharti Airtel Ltd. Vs. State of Karnataka [2012 (25) STR 514]**, wherein it was held that the energy / waves used by telecom service providers as a carrier for data / information through optical fibre cable broadband lines would not constitute 'goods', and that such transactions would accordingly attract Service Tax and not VAT.

- Section 67A amended to clarify that the time or point in time with respect to rate of Service Tax shall be such as may be prescribed



The proposed amendment and corresponding amendment in POTR puts the conflict between the POTR and Section 67A, if any, at rest.

- Interest rates on delayed payment of service tax rationalized at 15, where service tax collected and not paid, interest rate is 24%
- Period of limitation for issuing Show Cause Notices increased to 30 months from 18 months



This amendment may lead to increase in litigation.

- Following exemptions were withdrawn on April 15

Exemption restored where: Services provided to Government by way of construction of Construction, erection, commissioning, installation, completion, fitting out, repair,

maintenance, renovation or alteration of educational, clinical, art or culture establishment, residential complex, etc. where contract executed before March 2015

- Following exemptions were withdrawn on April 15

Exemption restored where: Services provided by way of construction of Construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of airport, port, etc. where contract executed before March 2015



Exemption in the above two points has been restored in order to broaden the tax base. This exemption was withdrawn w.e.f April 1, 2015 and is being restored for the contracts which had been entered into prior to March 1, 2015 on which appropriate stamp duty (wherever applicable) had been paid prior to that date. The exemption is proposed to be extended retrospectively during the period from April 01, 2015 to February 29, 2016.

- The power to arrest under the Act is proposed to be restricted only to situations where the assessee has collected tax but not deposited it with the Central Government, and the amount of such tax is more than INR 2 crores
- Refund of service tax on services used beyond the factory or any other place or premises of production or manufacture of the said goods, for export of the said goods allowed retrospectively, for the period July 01, 2012 to February 01, 2016. Time period of one month is proposed to be allowed to the exporters whose claims of refund were earlier rejected.

### **Mega exemption notification**

#### **A. Exemptions introduced**

*(Effective immediately from 1 March, 2016)*

- Services provided by IIM institute
- Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship
- Services provided by way of skill/vocational training by Deen Dayal Upadhyay Grameen Kaushalya Yojana training partners
- Services provided to the Government, a local authority or a governmental authority by way of construction, erection, etc. of –
  - a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;

- a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;
- a residential complex predominantly meant for self-use or the use of their employees or other persons
- Services by way of construction, erection etc. of a civil structure or any other original works pertaining to the “In-situ Rehabilitation of existing slum dwellers using land as a resource through private participation” component of Housing for All (Urban) Mission / Pradhan Mantri Awas Yojana, except in respect of such dwelling units of the projects which are not constructed for existing slum dwellers
- Services by way of construction, erection etc., of a civil structure or any other original works pertaining to the “Beneficiary-led individual house construction / enhancement” component of Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana
- Services by way of construction, erection, etc., of original works pertaining to low cost houses up to a carpet area of 60 sq.m per house in a housing project approved by the competent authority under the “Affordable housing in partnership” component of Pradhan Mantri Awas Yojana or any housing scheme of a State Government



These exemptions are in line with the intention of the Government to boost construction sector and promote affordable housing

- Services by way of transportation of goods by an aircraft from a place outside India up to the customs station of clearance in India



The service is presently covered under the Negative List. The said Negative List entry is proposed to be omitted. However, services of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India which were under the Negative List earlier have now become taxable.

Further, no reason has been provided for the inconsistent treatment of transportation of goods by vessels and aircrafts

The Tax Research Unit clarifies that Service Tax levied on such services shall not be part of the value for custom duty purposes. This is obvious since it would otherwise lead to tax on tax.

*(Effective from 1 April, 2016)*

- Services provided by various organizations such as SEBI, IRDA, EPFO

*(Effective from 1 June, 2016)*

- Service of transporting passengers with or without accompanied belongings by a non-air conditioned stage carriage



Earlier, the exemption included an air-conditioned stage carrier as well. The said entry is proposed to be deleted from the Act. Such services by air-conditioned stage carriage are proposed to be taxed at the same level of abatement (60%) as applicable to the transportation of passengers by a contract carriage, with same conditions of non-availment of CENVAT credit.

## **B. Exemptions withdrawn**

*(Effective immediately from 1 March, 2016)*

- Construction, erection, commissioning or installation of original works pertaining to monorail or metro

*(Effective from 1 April, 2016)*

- Services provided by senior advocate to an advocate or partnership firms
- Services by a person represented on an arbitral tribunal to an arbitral tribunal
- Transportation of passengers by an air conditioned coach

*(Effective from 1 June, 2016)*

- Services of transportation of passengers, with or without accompanied belongings by way of ropeway, cable car or aerial tramway car

### **Taxability under Reverse charge provisions**

*(Effective from 1 April, 2016)*

- Services provided by a senior advocate to an advocate or a partnership firm by way of legal services have been excluded from the ambit of reverse charge
- Services provided by mutual fund agent to asset Management Company not covered under reverse charge mechanism.
- Support services provided by Government or local authority to business entities were earlier under the reverse charge mechanism. The scope of reverse charge has been expanded to include all services provided by Government or local authority to business entities.



The words “by way of support services” are being omitted. Accordingly, liability to pay Service Tax on any service (excluding the specified services) is being cast on the service recipient.

**Abatement***(Effective from 1 April, 2016)*

- New services on which abatement has been introduced, subject to conditions:

S.No.	Service	Abatement
1.	Service of transport of goods in containers by rail other than Indian Railways	60%
2.	Service of Goods Transport Agency (GTA) on shifting of used household goods	60%
3.	Services provided by a foreman to a chit fund in relation to chit	30%
4.	Services provided by transport of passengers with or without accompanied belongings by a stage carriage <i>(Effective from 1 June, 2016)</i>	60%

- Condition on the following existing services now available with credit of input service:
  - Transport of goods by rail
  - Transport of passengers with or without accompanied belongings by rail
  - Transport of goods by vessels
- Rationalization of abatement in the following services:
  - Tour operator services
    - Abatement of 90% to be continued on tours for arranging or booking accommodation only
    - Definition of ‘packaged tour’ has been omitted
    - Uniform abatement of 70% on all other tour operator services
  - Construction of complex, building, etc. services on uniform abatement of 70%



At present, separate abatement rates are prescribed for construction services for

(1) residential units having carpet area of less than 2000 square feet and the amount charged of less than INR 1 crore and ; (2) other constructions. A uniform abatement rate is now being prescribed for all such constructions.

- Abatement of rent-a cab subject to additional condition that cost of all goods (including fuel) and services supplied should be included in consideration. . The value (such goods, including fuel and services supplied by the service recipient) is required to be determined in terms of the generally accepted accounting principles.

### **Amendments to Service Tax Rules**

*(Effective from April 01, 2016)*

#### ***Addition / Amendment in the definition of “person liable to pay Service Tax” under Rule 2(1)(d)***

- Mutual fund agent or distributors have been designated as persons liable to pay Service Tax in respect ***of services provided by them to a mutual fund or asset management company.***



Prior to this amendment, services provided by mutual fund agent or distributors were taxable on a reverse charge mechanism basis. As a result, such agents / distributors were not eligible to avail CENVAT credit of the Service Tax paid on various Input services.

- Legal services provided by a senior advocate are removed from payment under reverse charge mechanism basis.



Senior Advocates will now be required to obtain registration under Service Tax and will be liable to discharge Service Tax liability on their own account.

- The word support was sought to be deleted from the relevant entry clause (E) under Rule 2(1)(d)(i) vide notification No. 5/2015 –ST dated March 01, 2015 from a date to be notified. Now April 01, 2016 has been notified as the date from which any service (and not only support services) provided by Government or local authorities to business entities shall be taxable under reverse charge basis.

#### ***Periodicity of payment of Service Tax by One Person Company and HUF***

- Rule 6 of the STR which deals with the payment of Service Tax and prescribes relaxation for individual or proprietary firm or partnership firm, is being amended as follows:
  - One Person Company having aggregate value of taxable services provided from one or more premises, of fifty lakh Rupees or less in the previous financial year shall be liable to discharge Service Tax on receipt basis by the 5<sup>th</sup> of the of the month immediately preceding the quarter in which the services is deemed to be provided

- The benefit of quarterly payment of Service Tax is also extended to HUF

### ***Amendment of rate of Service Tax on single premium annuity policies***

- Rule 6(7A) – Option provided to an insurer carrying on life insurance business to pay Service Tax @ 1.4% on single premium annuity policies where the amount allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service.

### ***Submission of annual return - Rule 7***

- Every assessee is now required to file annual return by 30th November of the succeeding financial year to which the return relates.
- A revised return can be submitted within one month from the date of submission of the annual return.
- Further, the assessee shall be liable to pay INR 100 per day of delay in filing of return and subject to a maximum of INR 20,000.

### ***Amendments to POTR***

*(Effective from March 01, 2016)*

- In addition to Section 94 of the Act, specific powers have now been given under Section 67A to frame rules regarding point in time of rate of Service Tax.
- Consequent to the above, Explanation 1 and 2 are added to Rule 5, which deals with payment of Service Tax on services taxed for the first time, to clarify that
  - This Rule shall also apply in case of new levies
  - New levy / tax shall be payable on all cases except where the payment is received before such service/levy became taxable for the first time and where the invoice is issued either before or within fourteen days of the date when the service/levy becomes taxable for the first time.



The absence of these kind of provisions caused controversies as in case of Swachh Bharat Cess

### Clarifications

- It has been clarified that the incentives received by Air Travel Agents from Computer Reservation System companies such as Galileo, Amadeus etc on booking of air tickets using the software of such companies is neither covered under the negative list nor exempt by notification, therefore liable to Service Tax.



This clarification attempts to put at rest the controversy pertaining to applicability of service tax on the Computer Reservation System (CRS) Companies. Since, this is a clarification, it may have bearing on the past transactions of such nature. There have been conflicting decisions in this issue. Therefore, it needs to be seen whether actually this clarification puts the controversy at rest or some fresh controversies arise seeing the retrospective nature.

- It has been clarified that the services by institutes of language management to various schools / institutions is liable to Service Tax as it provides services which is neither covered in the negative list nor exempt by any notification.
- Exemption from Service Tax is available in respect of services prescribed under Section 66D (l) of The Act which includes services of providing pre-school education or education up to higher secondary school (equivalent) or education for obtaining a qualification recognized by law. Further, exemption is also available for the auxiliary educational services provided to educational institution covered under Entry No. 9 of Notification No 25/2012-ST dated 20.06.2012. It is now clarified that institutes of language management does not provide any such exempt services to educational institutes, therefore is liable to Service tax.

### Miscellaneous

- Packaged software bearing Retail Sales Price not to attract service tax liability, subject to condition that Excise/CVD must have been paid on it and other procedural conditions. *(Effective immediately from 1 March, 2016)*
- The scope of Rule 5 of the Point of Taxation Rules, 2011 has been extended to apply in case of new levy on services. *(Effective immediately from 1 March, 2016)*
- An insurer carrying on life insurance business shall have the option to pay service tax at 1.4% of the single premium charged from the policy holder in case of single premium annuity policies, where the amount allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service. *(Effective from 1 April, 2016)*
- The benefits of quarterly payment of service tax and payment of service tax on receipt basis, which were earlier available to individual and partnership firms, are being extended

to One Person Company (OPC) whose aggregate value of taxable services provided from one or more premises is Rs. 50 lakhs or less in the previous financial year. Further, the benefit of quarterly payment of service tax is also being extended to HUF. (*Effective from 1 April, 2016*)

## EXCISE DUTY

### Legislative changes

*(Effective from date of enactment of Finance Bill, 2016)*

- Section 5A is amended to omit the requirement of publishing and offering for sale any notification issued, by the directorate of publicity and Public relations of CBEC



This amendment intends to overcome the decision of the Hon'ble Supreme Court in the case of **Union of India vs. Param Industries Ltd. [2015 (321) ELT 192]**, wherein it was inter alia held that though the Notification may have been published in the Gazette on a particular date, however it was not offered for sale, which event took place much thereafter and therefore the Department was not entitled to claim differential duty in respect of the new Notification

- Period of limitation of 1 year under section 11A has been increased to 2 years, in cases not involving fraud, suppression of facts, willful misstatement
- CBEC's power to issue orders, instructions and directions under section 37B has been widened to include implementation of any other provision of the Excise Act, 1944
- Amendment has been made to the list of goods considered to be 'deemed manufacture' under Section 2(f)(iii) of the CE Act
  - Entry Nos. 40 and 41 of the Third Schedule are proposed to be amended to include all goods under CETH 3401 (soap) and 3402 (organic surface active agents), respectively.
  - A new Entry No. 63A is proposed to be inserted to include all goods falling under CETH 7607 i.e. aluminum foil of thickness not exceeding 0.2 mm.
  - A new Entry No. 81D is proposed to be inserted to include all goods falling under CETH 8517 62 i.e. wrist wearable devices (smart watches).
  - Entry Nos. 100 and 100A are proposed to be amended to include "accessories" of vehicles in addition to the existing "parts, components and assemblies".

- Further, in view of the proposed changes vide 2017 HSN, Entry No. 58 is proposed to be amended to include glazed tiles, in addition to vitrified tiles, whether polished or not. Consequently, Entry No. 59 which covers Glazed Tiles is proposed to be omitted. However, such substitution and omission is proposed to come into effect from **January 1, 2017**

### Amendment to CE Rules

- Manufacturers of articles of jewelry other than silver having more than one premise have option of taking single registration of factory, premise or office, where it has centralized billing or accounting system – *(Effective from 1<sup>st</sup> March, 2016)*
- For manufacturer of articles of jewelry other than articles of silver jewelry, condition of physical verification is not applicable for taking registration under Rule 9 – *(Effective from 1<sup>st</sup> March, 2016)*



These amendments are aimed at 'Ease of Doing' business in India.

- Rule 7 amended to provide that in case of finalization of provisional assessment, interest to be chargeable from the 1<sup>st</sup> date after due date till the date of actual payment – *(Effective from 1<sup>st</sup> March, 2016)*



This amendment has been made to ensure that the Government is compensated for interest even where provisional assessment is done.

- Explanation 1 to second proviso to Rule 8 amended to provide facility of quarterly payment of excise duty to manufacturer of articles of jewelry other than articles of silver jewelry, in case their clearances of preceding FY year does not exceed 12 crores – *(Effective from 1<sup>st</sup> March, 2016)*
- Requirement of self-attestation by the manufacturer of duplicate invoice meant for transporter has been omitted – *(Effective from 1<sup>st</sup> March, 2016)*
- Following amendment made in Rule 12
  - Annual financial statement replaced with annual return – *(Effective from 1<sup>st</sup> April, 2016)*
  - Return on Annual installed capacity is done away with – *(Effective from 1<sup>st</sup> April, 2016)*
  - Facility of revised for return introduced for excise returns as well – *To be notified*

- In case of revised monthly returns, the relevant date for the purpose of recovery of excise duty under section 11A of CE Act is the date of submission of such revised return – *(Effective from 1<sup>st</sup> April, 2016)*
- Rule 17 amended to allow EOU to revise its return by the end of calendar month in which original return is filed. Further relevant date for section 11A of CE Act is the date of submission of revised return – *To be notified*
- In case penalty (equal to duty) under section 11AC has been paid in relation to any goods then penalty under Rule 26 shall not be levied on the same goods on some other person – *(Effective from 1<sup>st</sup> March, 2016)*
- Rate of interest on delay in payment of duty reduced from 18% to 15% – *(Effective from 1<sup>st</sup> April, 2016)*
- Exporter to pay interest @ 15% under section 11AA of the CE Act in case goods cleared from factory for export are diverted for home consumption – *(Effective from 1<sup>st</sup> March, 2016)*
- DTA exporter who procures raw materials from EOU, is now required to pay interest @15% under section 11AA of the CE Act in case he fails to export the goods within the specified period – *(Effective from 1<sup>st</sup> March, 2016)*
- Time period for filing of rebate of excise under Rule 18 of the CE Rules has been prescribed to be 1 year from the relevant as per Section 11B of CE Act – *(Effective from 1<sup>st</sup> March, 2016)*
- Single registration allowed for two or more premises of the same factory located within a close area, subject to fulfilment of other conditions
- Amendment in the procedure prescribed for claiming of rebate on inputs under Rule 18 – *(Effective from 1<sup>st</sup> March, 2016)*



A new condition has been introduced that Indian market price should be considered. This amendment has been proposed to overcome the judgment of the Hon'ble Delhi High Court in the case of **Dr. Reddy's Laboratories Vs. Union of India [2014 (309) ELT (423)]**. The application of Section 11B of the CE Act to rebate claimed under Rule 18 of the CE Rules is being introduced to overcome the judgment of the Hon'ble Punjab and Haryana High Court in the case of **JSL Lifestyle Limited vs. Union of India [2015 (326) ELT (265)]**.

- Removal of goods at concessional rate of duty Rules are being substituted by new rules so as to simplify the rules, including importer/manufacturer based on self-declaration instead of obtaining permission from central excise authorities – *(Effective from 1<sup>st</sup> March, 2016)*



The amendments are aimed at 'Ease of Doing' business in India.

### Changes in Excise Duty Rate

Sr.	Product Tariff	Description of Goods	Existing Rate (%)	Revised Rate
1.	2106 90 20	Pan Masala	16	19
2.	2712	N-paraffin arising in the course of manufacture of Linear Alkyl Benzene and Heavy Alkylate	14	NIL
3.	2710 1920	Aviation turbine fuel other than supplied to scheduled commuter airlines from the regional connectivity scheme airports	8	14
4.	28, 29 or 38	Micronutrients, which are covered under sr. no. 1(f) of Schedule 1, Part (A) of the Fertilizer Control Order, 1985 and are manufactured by the manufacturers which are registered under the Fertilizer Control Order, 1985	12.5	6
5.	31	Mixture of fertilizers (made by physical mixing of chemical fertilizers on which appropriate duty of excise has been paid, by Co-operative Societies, holding certificate of manufacture for mixture of fertilizers under the Fertilizer Control Order, 1985) supplied to the members of such Co-operative Societies	12.5	NIL
6.	38	Ready-mix concrete manufactured at the construction site for use in construction activity	12.5	NIL
7.	3923 21 00 or 3923 29	Sacks and bags of polymer of any plastics	12.5	15
8.	4008 29 10	Rubber sheets and resin rubber sheets for soles and heels	12.5	6

9.	54 or 55	Polyester staple fibre or polyester filament yarn manufactured from plastic including waste PET bottles	6	12.5
10.	61, 62 and 63  (6301 to 6308)  except those  falling under  6309 0000,  6310 of RSP of INR 1000 and above when they bear or sold under a brand name	Readymade garments and made up article of textiles	NIL	2 - without CENVAT  12.5 – with CENVAT
11.	Goods other than those covered under entry no. 11 and falling under 61, 62 and 63	Readymade garments and made up articles of textiles	NIL	NIL - without CENVAT 6 – with CENVAT

12.	Goods other than those covered under entry no. 11 and falling under 61, 62 and 63	In case of garments / articles of cotton not containing any other textile material	6	NIL - without CENVAT  12.5 – with CENVAT
13.	71	Gold bars manufactured from gold ore or concentrate; gold dore bar and silver dore bar	9	9.5
14.	71	Silver manufactured from silver ore or concentrate; silver dore bar and gold dore bar	8	8.5
15.	71	Gold bars and gold coins of purity not below 99.5%, produced during the process of copper smelting	9	9.5
16.	71	Silver produced during the process of zinc or lead smelting	8	8.5
17.	7113	Articles of jewelry excluding articles of silver jewelry, other than those studded with diamonds, ruby, emerald or sapphire	NIL – without CENVAT  6 - with CENVAT	1 - without CENVAT  12.5 – with CENVAT
18.	7323 or 7418 or 7615	Aluminum foil containers	6	12.5
19.	8413 91 or 8501 31 19	Goods such as shafts, sleeve, chamber, impeller, washer, electric motor for use in manufacture of centrifugal pumps falling under tariff item 8413 70 10 (subject to actual user condition)	12.5	6

20.	8507 60 00	Lithium-ion batteries other than batteries of mobile handsets including cellular phones	12.5	4 - without CENVAT  12.5 – with CENVAT
21.	8504	Charger or adapter for manufacture of mobile handsets including cellular phones	NIL	2 - without CENVAT  12.5 – with CENVAT
22.	8506, 8507	Battery for manufacture of mobile handsets including cellular phones	NIL	2 - without CENVAT  12.5 – with CENVAT
23.	8518 30 00	Wired headsets for manufacture of mobile handsets including cellular phones	NIL	2 - without CENVAT  12.5 – with CENVAT
24.	8518	Speakers for manufacture of mobile handsets including cellular phones	12.5	2 - without CENVAT  12.5 – with CENVAT

25.	8517 62 30	Broadband modem	12.5	4 - without CENVAT  12.5 – with CENVAT
26.	8517 69 30	Routers	12.5	4 - without CENVAT  12.5 – with CENVAT
27.	8517 69 60	Set-top boxes for gaining access to internet	12.5	4 - without CENVAT  12.5 – with CENVAT
28.	8521 90 90	Digital Video Recorder (DVR) or Network Video Recorder (NVR)	12.5	4 - without CENVAT  12.5 – with CENVAT
29.	8525 80 20	CCTV camera or IP camera	12.5	4 - without CENVAT  12.5 – with CENVAT
30.	8528 7100	Reception apparatus for television but not designed to incorporate a video display	12.5	4 - without CENVAT  12.5 – with CENVAT

31.	85 or any other Chapter	<p>Parts, components and accessories for manufacture of</p> <ul style="list-style-type: none"> <li>a. Lithium-ion batteries other than batteries of mobile handsets including cellular phones;</li> <li>b. Routers;</li> <li>c. Broadband modem;</li> <li>d. Set-top boxes for gaining access to Internet</li> <li>e. DVR or NVR;</li> <li>f. CCTV camera or IP camera;</li> <li>g. Reception apparatus for television but not designed to incorporate a video display;</li> <li>h. Sub-parts for manufacture of the items mentioned at (a), (b), (c), (d), (e), (f) and (g) above;</li> <li>i. Charger or adapter of mobile handsets including cellular phones;</li> <li>j. Battery of mobile handsets including cellular phones;</li> <li>k. Wired headsets of mobile handsets including cellular phones;</li> <li>l. Speakers of mobile handsets including cellular phones;</li> <li>m. Inputs or sub-parts for manufacture of parts mentioned at (i), (j) (k) and (l) above</li> </ul>	12.5	NIL  (Subject to fulfillment of conditions)
32.	8607	Parts of Railway or tramway locomotives or rolling stock	12.5	6
33.	8608	Railway or tramway track fixtures and fittings, etc.	12.5	6
34.	8609 00 00	Refrigerated containers	12.5	6

35.	Any Chapter	Engine for xEV (hybrid electric vehicle)	12.5	6
36.	Any Chapter	Engine for HV (Atkinson Cycle)	6	12.5
37.	88	Tools and tool kits for maintenance, repair, and overhauling of aircraft	12.5	NIL
38.	89 or any other Chapter	Capital goods and spare thereof, raw materials, parts, material handling equipment and consumable for repairs of ocean-going vessels by a ship repair unit	12.5	NIL
39.	90 or 84	Disposable sterilized dialyzer or micro barrier of artificial kidney	12.5	NIL
40.	38, 39 or 68	Goods specified in List 9A [i.e. Epoxy resin, Vinyl ester adhesives, Hardener for adhesive resin, Hardeners, Polyester based infusion resin and hand layup resin] used for the manufacture of rotor blades and intermediates, parts and sub-parts of rotor blades, for wind operated electricity generators	NIL	6
41.	6815 10 90	Carbon pultrusion used for the manufacture of rotor blades and intermediates, parts and sub-parts of rotor blades, for wind operated electricity generators	12.5	6
42.	9405 50 40	Solar lamps	12.5	NIL

**Abatements**

*(Effective from March 01, 2016)*

Products	Entry	Change
Soap	39	30% abatement extended to all goods under CETH
Organic surface active agents	40	30% abatement extended to all goods under CETH
Footwear	56	Rate of abatement increased from 25% to 30%
Aluminum foil of thickness not exceeding	64A	New entry inserted specifying abatement of 25%
wrist wearable devices (smart watches)	87A	New entry inserted specifying abatement of 35%

Part, Components and Assemblies	108	Proposed inclusion of “accessories” with existing rate of 30%
Part, Components and Assemblies of goods falling under CETH 8426 41 00, 8427, 8429, 8430 10 with the proposed inclusion of accessories	109	Proposed inclusion of “accessories” with existing rate of 30%

### Other Changes

- Area based exemptions to units engaged in production of refined gold or silver withdrawn
- Benefit of SSI Scheme has been extended to specified jewelry manufacturers for clearances upto Rs. 6 crores in a financial year (provided that the preceding year’s turnover has not exceeded Rs. 12 crores)
- Increase in excise duty rate for various types of pan masala, cigarettes and specified tobacco products
- Rate of Clean Energy Cess (renamed as Clean Environment Cess) increased to Rs. 400 per tonne
- Infrastructure Cess has been levied on motor vehicles as under:
  - Petrol/LPG/CNG driven motor vehicles of length not exceeding 4m and engine capacity not exceeding 1200cc @1%
  - Diesel driven motor vehicles of length not exceeding 4m and engine capacity not exceeding 1500cc @ 2.5%
  - All other categories of motor vehicles (not covered above or otherwise exempted like electric/ hybrid vehicles etc.) @4%
- Concessional rate of Excise duty of 6% on specified goods for the use in the manufacture of electrically operated vehicles and hybrid vehicles extended without time limit. Benefit extended to hybrid electric engines.

*(The above changes are effective from March 01, 2016)*

- Oil Industries Development Cess on domestically procured crude oil has been amended from tariff value basis (Rs. 4500 per metric tonne) to an ad valorem rate of 20%
- Specified cesses levied by various Ministries (e.g., salt cess, tobacco cess) has been proposed to be abolished (effective upon enactment of Finance Bill 2016)

The above change will be [effective upon enactment of the Finance Bill, 2016](#)

- Clarified that area based exemption available in case of substantial expansion undertaken in North-east & Sikkim
- Clarified that excise duty exemption available on supply of goods to the projects financed by UN or an international organization also available to sub-contractors

## CENVAT CREDIT

- CENVAT Credit available on outbound transportation of goods by vessel
- Credit of Basic Excise duty cannot be used for payment of output NCCD liability. NCCD liability can be offset by using only NCCD credit.
- Infrastructure Cess can neither be paid from CENVAT credit or is available as CENVAT credit.
- Definition of Capital goods has been amended to include Wagons of subheading 8606 92 of Central excise Tariff and;
- Any equipment and appliance used in an office has been made eligible for CENVAT Credit



This amendment has been brought to overcome the decision in the matter of Bulk Cements Corporation (India) Ltd. Vs. CCE [2013 (294) ELT 433] which has held that wagons under Chapter 86 cannot be considered as capital goods.

The amendment proposed to include make the office equipment and appliances as eligible for CENVAT credit is a welcome and much needed step.

- CENVAT Credit on inputs and capital goods used for pumping of water for captive use is allowed
- Capital goods of value up to Rs. 10,000 per piece to qualify as 'inputs'
- CENVAT Credit cannot be utilized towards payment of Infrastructure Cess
- Manufacturer of final products is allowed to take CENVAT credit on tools of Chapter 82 of Central Excise Tariff sent to job-worker or any another manufacturer to manufacture on his behalf
- Manufacturer of final products is allowed to take CENVAT credit on jigs, fixtures, moulds, dies and tools of Chapter 82 of Central Excise Tariff when directly sent to job-worker or any another manufacturer

- CENVAT Credit of service tax paid on services provided by way of assignment of the right to use any natural resource by government or any other person is to be availed as per the prescribed formulae as given below
  - Formulae – *Amount of CENVAT Credit that shall be taken in a financial year = Service Tax paid on the charges payable for the assignment of the right to use / No. of Years for which the rights have been assigned*
  - Full credit available in case such rights are further assigned to another person against a consideration
  - In respect of annual or monthly user charges, the credit shall be allowed in the same FY in which they are paid.
  
- Rule 6 – Procedure for reversal of CENVAT credit in respect of inputs and input services used in the manufacture of exempted goods or for the provision of exempted services has been simplified.
  
- Manufacturers exclusively engaged in manufacturing of exempted goods or service providers who exclusively provide exempted services shall not be eligible for credit of any inputs and input services [sub-rule 6(2)];
  
- Manufacturers engaged in manufacturing both exempted and non-exempted goods or service providers engaged in providing both exempted and non-exempted services, can follow any one of the following options for reversal of ineligible CENVAT Credit [sub-rule 6(3)]
  - pay an amount equal to six per cent of value of the exempted goods and seven per cent of value of the exempted services. However, such payment is restricted up to the total credit available with the assessee at the end of the period to which the payment relates.
  - pay an amount of ineligible CENVAT Credit as determined under sub-rule (3A) (i.e. proportionate reversal) by sequentially following the steps mentioned hereunder:
    - Ineligible Credit [A]: CENVAT Credit attributable to inputs and input services used exclusively in or in relation to the manufacture of exempted goods / exempted services to be treated as ineligible credit and shall be reversed;
    - Eligible Credit [B]: CENVAT Credit attributable to inputs and input services used exclusively in or in relation to the manufacture of non-exempted goods / non-exempted services to be treated as eligible credit and shall not have to be reversed;
    - Common Credit [C = Total Credit less A less B]: CENVAT Credit left after attribution of the above eligible and ineligible credits shall be called as “common credits”. Out of common credit, credit proportionately attributable towards value of exempted goods / services is to be treated as ineligible common credit and shall be required to be reversed and balance may consequently be availed.

- The formula to be applied to calculate ‘ineligible common credit’ denoted as D shall be  $D = (E/F) \times C$ . Where E is the sum total of – (a) value of exempted services provided and (b) value of exempted goods removed; and where F is the sum total of – (a) value of non-exempted services provided, (b) value of exempted services provided, (c) value of non-exempted goods removed, and (d) value of exempted goods removed.



- ✓ Option of maintaining separate books of accounts has been omitted
- ✓ Full credit of input or input services used exclusively in manufacture of taxable goods and provision of output services shall be available
- ✓ Formula of calculating proportionate reversal has been simplified
- ✓ Exempted serviced for the purpose of this Rule to include an activity which is not a "service"
- ✓ Non-compliance under Rule 6(3) may attract interest liability @ 15%

- Additional option has been given to Banking companies/financial institutions to reverse CENVAT Credit on actual basis i.e. 50% of the credit availed on inputs and inputs services of that month
- No CENVAT Credit is allowed on capital goods used exclusively in the manufacture of exempted goods or provision of exempted services for two years from the date of commencement of business or date of installation



This amendment has been done to overcome the decision in the case of **M/s. Brindavan Beverages Pvt. Ltd. Vs. CCE [2014-TIOL-2136]** wherein it was held that usage of capital goods for both taxable and exempted activity is not the requisite criteria to avail the CENVAT credit on capital goods.

- FIFO method for determining utilization of CENVAT Credit has been done away with

#### **Amendments pertaining to Input Service Distribution –**

**Rule 7 – Input Service Distributer can now distribute the input service credit to an outsourced manufacturing unit in addition to its own manufacturing units.**

- ‘Outsourced manufacturing unit’ has been defined to mean either:
  - A job-worker who is required to pay duty on the value determined under the provisions of Rule 10A of the Central Excise Valuation (Determination of Price Of Excisable Goods) Rules, 2000, on the goods manufactured for the Input Service Distributor; or
  - A manufacturer who manufactures goods, for the Input Service Distributor under a contract, bearing the brand name of the Input Service Distributor and is required to pay duty on the value determined under the provisions of Section 4A of the CE Act.
- Outsourced manufacturing unit would be required to maintain separate account of credit received from each of the Input Service Distributors and shall use it for payment of duty on goods manufactured for the Input Service Distributor concerned.
- The credit of Service Tax paid on input services, available with the Input Service Distributor as on March 01, 2016 shall not be distributed to an outsourced manufacturing unit.



This amendment is a welcome step for ensuring the free flow of credits. This amendment has been made to overcome the decision in the case of **Sunbell Alloys Co. Of India Ltd. vs. CCE, BELAPUR [2014 (34) STR 597]** wherein the Tribunal denied the availment of CENVAT Credit by a jobber against the ISD invoice issued by the principal manufacturer.

#### **Rule 7B – Introduction of input service distribution mechanism for goods**

- Rule 7B has been inserted in the CCR to enable manufacturers with multiple manufacturing units to avail the CENVAT Credit on the basis of Excise invoice issued by the warehouse storing raw material, packing material etc. of the said manufacturer.
- Procedure as applicable to a first stage dealer or a second stage dealer would apply, *mutatis mutandis*, to such a warehouse of the manufacturer.



This amendment is again a welcome step for ensuring the free flow of credits.

- **Rule 9** has been amended, to allow credit on the basis of invoice issued by a ‘Service Provider’ for clearance of inputs or capital goods as such. Earlier, only the invoice issued by a ‘manufacturer’ for removal of inputs or capital goods as such was prescribed as valid document for availment of credit.

### Refund under Rule 5

- In case of a ‘manufacturer’, the time limit to file a refund claim will be as per the period specified in Section 11B of the CE Act;
- In case of ‘services provider’, the time limit will be one year from the date of;
  - Receipt of payment in convertible foreign exchange where the provision of services has been complete prior to receipt of payment; or
  - The date of issue of invoice, where payment for the service has been received in advance prior to the date of issue to invoice



This amendment was much needed in order to bring at rest the controversy over the calculation of period of one year. Earlier, there have been many cases where the dispute was raised with regard to whether the period of one year should be calculated from the date of invoice or the provision of service or the realization of forex.

## CUSTOMS

### Legislative Changes

*(Effective upon enactment of Finance Bill, 2016)*

- Concept of ‘Special Warehouse’ introduced to enable the storage of specific goods under physical control of the department.
- Concept of warehousing station omitted. Accordingly, warehouses can be opened anywhere now.



This amendment has been done to promote ‘Ease of Doing Business’. Now, warehouses can be opened anywhere as against earlier situation where the warehouses could be opened only at the notified places.

- Period of limitation for issuance of show cause notice increased from one year to two years in cases not involving fraud, suppression of facts, willful mis-statement etc.

- Scheme of deferred payment of duties to be introduced for clearance of goods for home consumption or exportation.
- Board to frame regulations for allowing transit of certain goods and conveyance without payment of duty.
- Warehousing bond increased from twice to thrice the amount of duty assessed on warehoused goods along with security.
- Provision related to period for which goods may remain warehoused amended-
  - Capital goods intended for use in 100% EoU or EHTP or STP unit or any warehouse – till their clearance from the warehouse.
  - Other than capital goods intended for use in 100% EoU or EHTP or STP unit or any warehouse – till their consumption or clearance from the warehouse.
  - Any other goods – one year
- No rent or warehousing charges to be paid.



This amendment is in view of privatization of services and free market determination of rates, including those facilities in the public sector.

### **Amendments in Customs Duties rates**

*(Effective from 1<sup>st</sup> March, 2016)*

S.No.	Description	From	To
	<b>Articles of rubber</b>		
1	Natural latex rubber made balloons falling under specified headings	10%	20%
	<b>Metals</b>		
2	Primary aluminum	5%	7.5%
3	Zinc alloys	5%	7.5%
	<b>Jewellery</b>		
4	Imitation jewelry	10%	15%
	<b>Renewable Energy</b>		
5	Industrial solar water heater	7.5%	10%

<b>Capital goods and parts thereof</b>			
6	Increase the tariff rate of BCD for 211 specified tariff lines in Chapters 84, 85 and 90	7.5%	10%
	a) The effective rates for 96 specified tariff lines will increase	7.5%	10%
	b) The effective rate for 115 tariff lines will be maintained	7.5%	7.5%

***Other proposals involving changes in BCD, CVD, SAD and export duty rates***

S.No.	Description	BCD/CVD/SAD/Export Duty	
		From	To
	<b>Export duty</b>		
	<b>Ores and concentrates</b>		
1	Iron ore fines with Fe content below 58%	10%	Nil
2	Iron ore lumps with Fe content below 58%	30%	Nil
3	Chromium ores and concentrates, all sorts	30%	Nil
4	Bauxite (natural), not calcined or calcined	20%	15%
	<b>Basic Customs Duty</b>		
	<b>Food Processing</b>		
1	Cashew nuts in shell	Nil	5%
2	Cold chain including pre-cooling unit, packhouses, sorting and grading lines and ripening chambers	10%	5%
3	Refrigerated containers	10%	5%
	<b>Mineral fuels and Mineral oils</b>		
4	Coal; briquettes, ovoids and similar solid fuels manufactured from coal	2.5% / 10%	2.5%
5	Lignite, whether or not agglomerated, excluding jet	10%	2.5%
6	Peat (including peat litter), whether or not agglomerated	10%	2.5%
7	Coke and semi-coke of coal, of lignite or of peat, whether or not agglomerated; retort carbon	5% / 10%	5%

8	Coal gas, water gas, producer gas and similar gases, other than petroleum gases and other gaseous hydrocarbons	10%	5%
9	Tar distilled from coal, from lignite or from peat and other mineral tars, whether or not dehydrated or partially distilled, including reconstituted tars	10%	5%
10	Oils and other products of the distillation of high temperature coal tar similar products in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents	2.5% / 5% / 10%	2.5%
11	Pitch and pitch coke, obtained from coal tar or from other mineral tars	5% / 10%	5%
<b>Petroleum exploration and production</b>			
12	Goods required for exploration & production of hydrocarbon activities undertaken under Petroleum Exploration Licenses (PEL) or Mining Leases (ML) issued or renewed before 1 <sup>st</sup> April 1999	Applicable BCD and CVD	BCD - Nil CVD – Nil
<b>Chemicals &amp; Petrochemicals</b>			
13	All acyclic hydrocarbons and all cyclic hydrocarbons [other than para-xylene which attracts Nil BCD and styrene which attracts 2% BCD]	5% / 2.5%	2.5%
14	Denatured ethyl alcohol (Ethanol) subject to actual user condition	5%	2.5%
15	Orthoxylene for the manufacture of phthalic anhydride subject to actual user condition	SAD – 4%	SAD – 2%
16	Electrolysers, membranes and their parts required by caustic soda / potash unit using membrane cell technology	2.5%	Nil
<b>Paper, Paperboard and newsprint</b>			
17	Wood in chips or particles for manufacture of paper, paperboard and news print	5%	Nil
18	Plans, drawings and designs	Nil	10%
<b>Textiles</b>			
19	Specified fibres and yarns	5%	2.5%

20	Specified fabrics [for manufacture of textile garments for export] of value equivalent to 1% of FOB value of exports in the preceding financial year subject to the specified conditions. The entitlement for the month of March 2016 shall be one twelfth of one per cent of the FOB value of exports in the financial year 2014-15.	Applicable BCD	Nil
	<b>Electronics / Hardware</b>		
21	Polypropylene granules / resins for the manufacture of capacitor grade plastic films	7.5%	Nil
22	E-Readers	Nil	7.5%
23	Parts of E-readers	Applicable BCD	5%
24	Magnetron of capacity of 1 KW to 1.5 KW for use in manufacture of domestic microwave ovens subject to actual user condition.	10%	Nil
25	Machinery, electrical equipment and instrument and parts thereof (except populated PCBs) for semiconductor wafer fabrication / LCD fabrication units	Applicable BCD  SAD	Nil BCD  Nil SAD
26	Machinery, electrical equipment and instrument and parts thereof (except populated PCBs) imported for Assembly, Test, Marking and Packaging of semiconductor chips (ATMP)	Applicable BCD SAD	Nil BCD Nil SAD
27	The exemption from basic customs duty, CV duty, SAD on charger / adapter, battery and wired headsets / speakers for manufacture of mobile phone being withdrawn	BCD- Nil CVD - Nil SAD - Nil	Applicable BCD CVD – 12.5%  SAD – 4%
28	Inputs, parts and components, subparts for manufacture of charger / adapter, battery and wired headsets / speakers of mobile phones, subject to actual user condition	Applicable BCD, CVD SAD	Nil BCD Nil CVD  Nil SAD

29	Parts and components, subparts for manufacture of Routers, broadband Modems, Set-top boxes for gaining access to internet, set top boxes for TV, digital video recorder (DVR) / network video recorder (NVR), CCTV camera / IP camera, lithium ion battery [other than those for mobile handsets]	Applicable BCD, CVD SAD	Nil BCD Nil CVD Nil SAD
30	Magnetic - Heads (all types), Ceramic / Magnetic cartridges and stylus, Antennas, EHT cables, Level meters/level indicators/tuning indicators/ peak level meters/ battery meter/VC meters / Tape counters, Tone arms, Electron guns	Nil BCD	Applicable BCD
31	To exclude specified telecommunication equipment [Soft switches and Voice over Internet Protocol (VoIP) equipment namely VoIP phones, media gateways, gateway controllers and session border controllers, Optical Transport equipment; combination of one / more of Packet Optical Transport Product/Switch (POTP/POTS), Optical Transport Network(OTN) products, and IP Radios, Carrier Ethernet Switch, Packet Transport Node (PTN) products, Multiprotocol Label Switching-Transport Profile (MPLS-TP) products, Multiple Input / Multiple Output (MIMO) and Long Term Evolution (LTE) Products on which 10% BCD was imposed in 2014-15 Budget being non-ITA I bound] from the purview of the other exemption.	Nil BCD	10%
32	Preform of silica for manufacture of telecom grade optical fibre /cables	Nil	10%
33	Specified capital goods and inputs for use in manufacture of Micro fuses, Sub-miniature fuses, Resettable fuses, and Thermal fuses	Applicable BCD	Nil
34	Neodymium Magnet (before Magnetization) and Magnet Resin (Strontium Ferrite compound/before formed, before magnetization) for manufacture of BLDC motors, subject to actual user condition	Applicable BCD	2.5%
35	Populated PCBs for manufacture of personal computers (laptop or desktop)	Nil SAD	4% SAD
36	Populated PCBs for manufacture of mobile phone/tablet computer	Nil SAD	2% SAD

	<b>Metals, glass and ceramics</b>		
37	Silica sand	5%	2.5%
38	Brass scrap	5%	2.5%
39	Other aluminium products	7.5%	10%
	<b>Jewellery</b>		
40	Gold dore bars.	8% CVD	8.75% CVD
41	Silver dore.	7% CVD	7.75% CVD
	<b>Automobiles</b>		
42	Golf cars	10%	60%
43	Specified parts of electric and hybrid vehicles	BCD-Nil CVD – 6%  Upto 31.03.2016	BCD-Nil CVD – 6%  Without time limit
44	Aluminium Oxide for use in the manufacture of Wash Coat, which is used in the manufacture of catalytic converters, subject to actual user condition	7.5%	5%
45	Engine for xEV (hybrid electric vehicle)	Applicable BCD and CVD	Nil BCD  6% CVD
	<b>Capital Goods</b>		

46	Specified machinery required for construction of roads	CVD – Nil	CVD – 12.5%
	<b>Defence Production</b>		
47	Direct imports of specified goods by Government of India or State Governments, with effect from 01.4.2016	BCD Nil CVD – Nil SAD – Nil	Applicable BCD, CVD and SAD
48	Imports of specified goods for defence purposes by contractors of the Government of India, PSUs or sub-contractors of PSUs, with effect from 01.4.2016	BCD Nil  Applicable CVD and SAD	Applicable BCD, CVD and SAD
	<b>Maintenance, repair and overhaul [MRO] of aircrafts</b>		
49	Tools and tool kits when imported by MROs for maintenance, repair, and overhauling [MRO] of aircraft subject to a certification by the Directorate General of Civil Aviation	Applicable BCD, CVD and SAD	Nil BCD Nil CVD Nil SAD
50	Simplify the procedure for availment of exemption from customs duties on parts, testing equipment, tools and tool-kits for maintenance, repair and overhaul of aircraft based on records and subject to actual user condition	-	-
51	Remove the restriction of one year for utilization of duty free parts for maintenance, repair and overhaul of aircraft	-	-
52	Further relax the existing conditions of stay [upto 60 days], so as to provide for stay up to 6 months of the foreign aircraft for maintenance, repair or overhauling, and provide for further extension of such period by DGCA as deemed fit	-	-
	<b>Ship Repair Units</b>		
53	Capital goods and spare thereof, raw materials, parts, material handling equipment and consumable for repairs of ocean-going vessels by a ship repair unit subject to actual user condition.	Applicable excise duty	Nil

54	Simplify the procedure for availment of exemption from Basic Customs Duty, CVD and SAD by ship repair units based on records and subject to actual user condition	-	-
	<b>Miscellaneous</b>		
55	Braille paper	10%	Nil
56	Disposable sterilized dialyzer and micro barrier of artificial kidney	Applicable BCD, CVD, SAD	Nil BCD Nil CVD Nil SAD
57	Solar tempered glass / solar tempered (anti-reflective coated) glass, subject to actual user condition	Nil	5%
58	Medical Use Fission Molybdenum-99 imported by Board of Radiation and Isotope Technology (BRIT) for manufacture of radio pharmaceuticals	7.5%	Nil
59	Pulp of wood for manufacture of sanitary pads, napkins & tampons	5%	2.5%
60	Super Absorbent Polymer when used for the manufacture of sanitary pads, napkins & tampons	7.5%	5%
61	Merge the exemptions from customs duties on specified goods imported for petroleum exploration under various types of licenses or mining leases, pre-NELP contracts, NELP contracts, Marginal Fields Policy and the Coal Bed Methane Policy into a single exemption with a unified list of specified goods and conditions	Nil BCD Nil CVD Nil SAD	Nil BCD Nil CVD Nil SAD
62	Specified goods required for exploration & production of hydrocarbon activities undertaken under Petroleum Exploration Licenses (PEL) or Mining Leases (ML) issued or renewed before 1 <sup>st</sup> April 1999	Applicable BCD, CVD, SAD	Nil BCD Nil CVD Nil SAD

63	Prescribe actual user condition for the imports of Phosphoric Acid and Anhydrous Ammonia at concessional BCD/CVD for manufacture of Fertilizers	-	-
64	Prescribe actual user condition for imports of LCD/LED/OLED Panels imported at Nil BCD for manufacture of LCD/LED/OLED TVs	-	-
65	“Foreign Satellite data” on storage media when imported by National Remote Sensing Centre (NRSC), Hyderabad	Applicable BCD, CVD, SAD	Nil BCD Nil CVD Nil SAD

### Miscellaneous

- Direct imports by Government of India or State Governments to attract customs duties.
- Exemption extended on imports of goods required for exploration & production of hydrocarbon activities undertaken under Petroleum Exploration Licenses (PEL) or Mining Leases (ML) issued or renewed before 1st April 1999
- Procedure for availment of exemption from BCD, CVD and SAD under Chap 89 by ship repair units simplified.
- Existing condition of stay of foreign aircraft, for maintenance repair and overhaul, increased from 60 days to 6 months.
- No time limit for exemption granted to specified goods for use in manufacture of electrically operated vehicles and hybrid vehicles.
- Duty free allowance for bonafide gifts increased from INR 10,000 to INR 20,000.
- CVD exempt on pre-packaged import of media with recorded Information Technology Software not requiring declaration of RSP, subject to levy of service tax.
- Exemption to parts of aircraft when imported into India under the Standard Exchange Scheme, from the duty of custom that is in excess of the duty of customs which would be leviable if the value of the said parts were made up of the Standard Exchange Cost.

### Clarifications

- In case, specified goods are exempt from SAD, specific provision pertaining to refund of SAD is not required in SAD refund notification.

- The Power Project, listed in the notification and awarded through International Competitive Bidding [ICB], if exempted from BCD and CVD then it shall be exempt from Excise Duty subject to fulfillment of conditions specified in the notification.
- The concessional rate of 5% BCD shall apply to Positive Thermal Coefficient (relays) which are classified under 8536 49 00 for the past, present and future period.
- Aircraft engines and part thereof are exempt from customs duty subject to conditions specified in the Notification.

### **Changes with respect to Baggage Rules**

- The existing Baggage Rules, 1998 are proposed to be substituted with the Baggage Rules, 2016. These new Rules will come into effect from **April 01, 2016**.



This amendment has been done to simplify and rationalize multiple slabs of duty free allowance for various categories of passengers.

- The new rules propose to provide that any passenger over two years of age will be entitled to the duty free allowances as opposed to the earlier age limit of 10 years and above.
- A slab system of duty free allowances of personal and household articles in respect of a person transferring his residence to India is proposed to be introduced to provide for duty free allowance depending on the duration of stay abroad ranging from INR 60,000 to INR 5,00,000.
- The Customs Baggage Declaration Regulations, 2013 are proposed to be amended with effect from April 01, 2016, to provide that only those passengers who come to India and have anything to declare or are carrying dutiable or prohibited goods will be required to file a declaration in terms of the said amended Regulations.

### **Supersession of the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 with the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016**

- The Rules propose to simplify the procedure in as much as a manufacturer intending to avail the benefit of an exemption notification issued under Section 25 of the Customs Act will no longer be required to obtain a specific registration from the jurisdictional Central Excise Officer, to claim exemption under the aforesaid Rules.
- A manufacturer will now only be required to make a self- declaration, setting out details such as the name, address, details of excisable goods produced and the nature and description of the imported goods used in manufacture.

- A manufacturer obtaining benefit of these Rules can re-export the unutilized or defective imported goods within 3 months from the date of import as opposed to 6 months in the earlier Rules.

## CENTRAL SALES TAX

- Section 3 of CST is proposed to be amended to the effect that Sale of gas introduced in a common pipeline in one State and taken out in another State which gets co-mingled with other gas in the pipeline shall be treated as an inter-state sale.



This is a much needed reform in the CST laws due to the fact that huge stakes of oil companies are involved since most of the state governments demand VAT on this transaction. This amendment reinforces the decision given in the case of Reliance Industries Ltd. State of UP [2012-VIL-66-ALH] by Allahabad High Court that so long as the seller injects the gas into the pipeline in one state, and the buyer receives an equivalent quantity of the gas in another State, the transaction would qualify as an inter-State sale liable to CST. However, this matter is pending in the Supreme Court.

## INDIRECT TAX DISPUTE RESOLUTION SCHEME, 2016

### *Mechanism introduced for efficient disposal of pending customs, excise and service tax litigation*

*(Applicable to matters pending before the Commissioner (Appeals) as on 1 March 2016)*

- Scheme effective from 1 June 2016 and declaration by applicant can be filed up to 31 December 2016
- The scheme offers immunity from prosecution upon payment of tax, interest and 25% penalty
- Scheme not be applicable to:
  - any search and seizure proceeding
  - where prosecution for any offence has been instituted before 1 June 2016
  - any order in respect of narcotic drugs or other prohibited goods
  - any order in respect of any offence punishable under the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985 or the Prevention of Corruption Act, 1988

- o any detention order under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974

## CHANGES MADE TO OVERCOME SOME IMPORTANT JUDGMENTS

Issue	Name of Judgment	Held	Proposed Amendment
The amount of rebate claim cannot be less than the market price of excisable goods.	<b>Dr. Reddy's Laboratories vs. Union of India [2014 (309) ELT (423)]</b>	Market price would be the market price of country where the goods are sold.	The amended condition entails that the market price would be the Indian market price.
Amendments to form and method of publication of Notifications issued under Section 5A of CE Act / Section 25 of the Customs Act.	<b>Union of India vs. Param Industries Ltd. [2015 (321) ELT 192 (SC)]</b>	For a notification to come into effect the same shall be published in the Official Gazette as well as offered for sale by the Directorate of Publicity and Public Relations.	Now, merely the date of publication in the Official Gazette shall be the date of effect. Condition of offering for sale by the Directorate of Publicity and Public Relations has been done away with.
Distribution of CENVAT Credit to 'outsourced manufacturing units' also, in addition to 'own manufacturing units'.	<b>Sunbell Alloys Co. of India Ltd. vs. CCE, Belapur [2014 (34) STR 597]</b>	Denied the availment of CENVAT Credit by a jobber against the ISD invoice issued by the principal manufacturer.	Input Service Distributer can now distribute the input service credit to an outsourced manufacturing unit also, in addition to its own manufacturing units.
Non-application of time limit under Section 11B of the CE Act to rebate claims.	<b>JSL Lifestyle Limited vs. Union of India [2015 (326) ELT (265)]</b>	The time limit of 1 year under Section 11B of CE Act is not applicable to rebate claims.	The time limit of 1 year under Section 11B of the CE Act will now be applicable to rebate claims.
CENVAT Credit on capital goods used exclusively	<b>M/s. Brindavan Beverages Pvt. Ltd</b>	simultaneous usage of the capital goods (irrespective	The amendment now requires that the capital goods must be used for

for exempt activity a period of two years from the date of commercial production or provision of services	<b>Vs. CCE, Meerut [2014-TIOL-2136]</b>	of any time limit) for both taxable and exempted activity is not the requisite criteria to avail the CENVAT Credit on capital goods.	taxable activities with a period of two years from the stipulated date; else the credit would lapse
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## Judgments Reaffirmed

Name of judgment	Issue reaffirmed
<b>Bharti Airtel Ltd. Vs. State of Karnataka [2012 (25) STR 514]</b>	The energy / waves used by telecom service providers as a carrier for data / information through optical fibre cable broadband lines would not constitute 'goods', and that such transactions would accordingly attract Service Tax and not VAT

## GLOSSARY OF TERMS

### Abbreviation

### Term

CBEC	Central Board of Excise and Custom
CE Act	Central Excise Act, 1944
CETH	Central Excise Tariff Heading
CCR	CENVAT Credit Rules, 2004
CST	Central Sales Tax
EHTP	Electronic Hardware Technology Park
EOU	Export Oriented Unit
INR	Indian Rupees
IRDA	Insurance Regulatory and Development Authority

POTR	Point of Taxation Rules, 2011
SEBI	Securities and Exchange Board of India
STP	Software Technology Park
w.e.f.	With effect from

For further details and clarification, please contact:

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