

*Budget  
Special*





Customer is not dependent on us,  
We are dependent on him.  
He is not an interruption on our work,  
He is the purpose of it.  
He is not an outsider to our business,  
He is a part of it.  
We are not doing him a favour  
by serving him,  
He is doing us a favour by giving us  
An opportunity to do so.

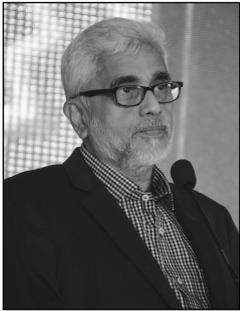
*Mahatma Gandhi*

**THIS  
MONTH  
4U**

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Date	Payments / Returns
1	Seminar on BUDGET arranged by Bizsol
5	State Excise Act Returns in Form RT-1 / RT-2 for February
6	Excise E- Payments for February Service Tax -E Payments for February
7	Payment of Salary / Wages If employees <1000 TDS Payments for February
10	Payment of Salary / Wages If employees > 1000 ER-1 / ER-2 Returns for February ER-6 Return for February
15	PF Payment Cum Return in Form ECR for February Payment of Water Cess in Form-I for February Advance Tax Final Installment
20	LBT Payments for February
21	ESIC Payments for February VAT Payments for February VAT Monthly Return in Form 231 for February CST Payment & Return in Form III [E] for February
23	Annual payment for renewal of Weight Bridge Certificate
30	ER-7 Return Monthly Profession Tax Payment-cum-return in Form IIIB (having payment more than Rs. 50,000/-) for February Annexure-19 under Central Excise - Proof of Exports for February
31	Apprentice Act- Quarterly Report in Form APP-6 for January to March Excise Duty Payment for March ST Payments for March Professional Tax payment (incase liability less than Rs 50,000 per year) for the period April to March



## FROM THE DESK OF THE CHAIRMAN

Human mind, perhaps because of the inherent limitation in processing large volumes of data, has this habit of labelling repetitive events so that they can be stored in appropriate folders in the recesses of our mind for easier retrieval. This is true for the annual Budget rituals also. A Finance Minister can expect his handiwork to be properly labeled by the experts and the media. In 1979 Chaudhary Charan Singh's Budget was labelled by the media as a kulak Budget alluding to Charan Singh's rural roots and his agricultural background. The Budget of 1997 presented by P Chidambaram came to be known as a dream budget because it contained steep reductions in the Income Tax rates. If one were to go back in history one can find Budgets made by many a Finance Minister similarly labelled. Consequently when a label appeared for the Budget presented by Arun Jaitley for 2016-17 it did not come as a surprise. However, there was one difference this year in this labelling exercise. No sooner Jaitley presented the Budget, nay even before, the new label was there all over the place - "transformative budget". The days of promotion and creation of orchestrated support and enthusiasm around an idea has arrived. The self-appointed spin doctors of Jaitley's party must have been at work even before the Budget was presented to label it and by the time the Jaitley completed his speech the label was already seen pasted all over the place. The audience now has only to decide whether the Budget, labelled as transformative, was indeed transformative!

This was Jaitley's third Budget in a row. Before getting into what the FM had to offer in the Budget a word about how he delivered his Budget speech in Parliament. One is used to seeing Jaitley in other avatars as a statesman making an intervention in Parliament or defending even an indefensible position in the media. He does justice to these roles with rare aplomb and élan normally not seen with contemporary

politicians. His extempore comments and speeches usually make a lasting impact with his audiences. In the avatar as FM one cannot say the same thing about him when he reads his Budget speech. With little freedom to stray from the written script Jaitley labours through his long speech and looks distinctly uncomfortable. He does not come across as the FM of a country whose economy is one of the few better performing ones in the world. Look at his boss. He is a consummate performer by all accounts. He gave his sound bites on the Budget from his office presumably with the help of a teleprompter. He is not one who would be satisfied with a casual comment on this all important event to a journalist after being waylaid in the corridors of the Parliament. Modi is one who believes firmly that style is as important as substance and if there is an opportunity to make a point, it must be made. After all it is his ministry's all important policy statement.

The Budget presented by Jaitley with all the enclosures and annexures down to the fine print has been analysed by Team Bizsol, as always, in the following pages. It has been done in such a way that all aspects of the Budget have been covered threadbare in a form in which our clients would find them useful and helpful. Let me confine myself to the broad contours to see and decipher if there is a storyline or theme running across the entire exercise.

BJP, a right of centre Party generally perceived as a Party preoccupied with the interest of trade and industry has veered to the left to please the peasantry in the Budget. That in a sense justifies the labeling of this Budget as transformative - a transformation from the right to the left. The middle class can wait, for now. Huge increases in allocations to agriculture and the rural sector are clear indications of an image makeover resorted to by the ruling party that has been battling a war of perceptions since coming to power. The agrarian distress being what it is with continuously

failing monsoons and unremunerative returns from the land this posturing is not surprising. If the past is any indication successive governments have been long on promises and short on delivery when it comes to these two sectors. The reasons are not far to seek. The mechanisms to deliver the goodies announced in the Budget are with the state governments whose performance riddled, as it is with endemic corruption, has been at best lackadaisical. The government armed with Aadhar and DBT has now a renewed opportunity to get the moneys to the target audience without too much leakage enroute. The FM has gone a step further to stick his neck out to commit that the government would see to it that all villages in India would be electrified by 2018. He went even to the extent of saying that the farmer would double his income by 2020! A tall order indeed.

The single most important message emanating from the Budget according to me is the government's decision to peg the fiscal deficit at 3.5% coming as it does with an accomplishment of holding on to the current year's deficit at the promised figure of 3.9%. This must have been a difficult decision for the government to make especially in the global environment where concepts like stimulus and quantitative easing have given dignity to simple and plain financial profligacy. However, in an increasingly integrated world the fiscal deficit of the state is the Holy Grail. A country's credibility is judged by the fiscal discipline that it adheres to. The FM did well to resist the temptation to let go of the deficit target to announce some cookies for the middle class. However, the government has decided to take a relook at the deficit financing mechanics under the FRBM Act. Having met the target the FM is now trying to peg the fiscal deficit as a rate linked to the overall fiscal picture than to hold on to absolute figures. That makes eminent sense.

The name of Modi was stamped all over the place in the Budget through his signature slogans leaving little doubt about the invisible hand behind the Budget. If tinkering with customs duties were considered necessary to make it feasible to produce in India, a slew of measures were announced in the name of ease of doing business in India - just to sight a few areas. Tax concessions are on offer for startups so that they can stand up. Most of the proposals in the Budget could be traced to one or the other slogans of Modi.

Arun Jaitley, being a lawyer himself, is aware of the cost of litigation and the futility of long drawn courtroom battles. Jaitley's dispute resolution proposals in the Budget and some significant simplification measures announced to reform the tax code come from this space. The thinly veiled amnesty scheme announced for those who wish to come clean has also to be seen in this context. The FM has also extended an olive branch to those who are already fighting the Department at various legal forums to settle vexatious taxation issues dragging on for years. It is time some practical steps of this nature are taken to reduce litigations and usher in an era of transparent and friendly tax regime. The cream on the cake was the additional mobilization of funds by taxing the uber rich through an increase in the surcharge for those earning income above Rs. 1 Crore, a Dividend Distribution Tax on dividends received above Rs. 10 lacs coupled with additional levies on luxury cars.

The bottom line for the FM was the fiscal deficit target. Having held on to the targeted figure of 3.5% the FM can now look at the RBI to join the party by reducing the interest rates. If the Guv plays ball it would be a big bonanza for the FM outside the Budget as the government is the biggest borrower in the market. That would in essence be a performance bonus to the FM.

The Congress Party fielded P Chidambaram as the primary spokesman to trash the Budget. He did it in his inimitable style. It must have been very easy for the former FM to tear into the current FM. All that he had to do was to cut and paste the criticisms the BJP had leveled against him whenever he had presented his Budgets. Phrases like it was a pedestrian Budget, anti-poor, unimaginative, playing with facts and figures, et al, came quite naturally to him. After all, when you are in Opposition you need not worry about veracity of facts and the need to verify figures.

However irrational it might be, a Budget gets judged on the day and on the basis of its presentation. Not so for Modi. He has deployed all his articulate ministerial colleagues to sell his Budget effectively to the public through a well thought out media road show. No wonder our PM at times does look more like a CEO with a sales strategy.

Thank you.

**Venkat R Venkitachalam**

# BUDGET ANALYSIS 2016 - 17

## CENTRAL EXCISE ACT 1944

Sec. No.	Amendment Effective Date	Provision	Existing Provision	Amendment in Existing / New Provision	Analysis
5A (5 & 6)	From the date of Ascent of President of India	Power to grant exemption from duty of excise	<p>(5) Every notification issued under sub-section (1) or sub-section 2(A) shall,</p> <p>(a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette;</p> <p>(b) also be published and offered for sale on the date of its issue by the Directorate of Publicity and Public Relations, Customs and Central Excise, New Delhi, under the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963).</p> <p>(6) Notwithstanding anything contained in sub-section (5), where a notification comes into force on a date later than the date of its issue, the same shall be published and offered for sale by the said Directorate of Publicity and Public Relations on a date on or before the date on which the said notification comes into force.</p>	<p>(5) Every notification issued under sub-section (1) or sub-section 2(A) shall, -</p> <p>(a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette;</p>	Now there is no requirement of publishing and offering for sale any notification issued, by the Directorate of Publicity and Public Relations of CBEC.
11A	From the date of Ascent of President of India	Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded.	<p>(1) Where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, for any reason, other than the reason of fraud or collusion or any wilful misstatement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty,-</p> <p>(a) the Central Excise Officer shall, within one year from the relevant date, serve notice on the person chargeable with the duty which has not been so levied or paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;</p> <p>(b) the person chargeable with duty may, before service of notice under clause (a), pay on the basis of,-</p>	<p>(1) Where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, for any reason, other than the reason of fraud or collusion or any wilful misstatement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty,-</p> <p>(a) the Central Excise Officer shall, within Two years from the relevant date, serve notice on the person chargeable with the duty which has not been so levied or paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;</p> <p>(b) the person chargeable with duty may, before service of notice under clause (a), pay on the basis of,-</p>	<p>Period of limitation has been increased from one year to two years for issuing SCN &amp; Demand Notices, in case not involving fraud, suppression of facts, willful mis-statement, etc</p> <p>However, period of limitation has not been extended in the matter of refund in Section 11B.</p>

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			<p>(i) his own ascertainment of such duty; or</p> <p>(ii) duty ascertained by the Central Excise Officer, the amount of duty along with interest payable thereon under section 11AA.</p> <p>(2) The person who has paid the duty under clause (b) of sub-section (1), shall inform the Central Excise Officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause (a) of that sub-section in respect of the duty so paid or any penalty leviable under the provisions of this Act or the rules made thereunder.</p> <p>(3) Where the Central Excise Officer is of the opinion that the amount paid under clause (b) of sub-section (1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (a) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of one year shall be computed from the date of receipt of information under sub-section (2).</p> <p>(4) Where any duty of excise has not been levied or paid or has been shortlevied or short-paid or erroneously refunded, by the reason of-</p> <p>(a) fraud; or</p> <p>(b) collusion; or</p> <p>(c) any willful mis-statement; or</p> <p>(d) suppression of facts; or</p> <p>(e) contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty,</p> <p>by any person chargeable with the duty, the Central Excise Officer shall, within five years from the relevant date, serve notice on such person requiring him to show cause why he should not pay the amount specified in the notice along with interest payable thereon under section 11AA and a penalty equivalent to the duty specified in the notice.</p> <p>(5) Where, during the course of any audit, investigation or verification, it is found that any duty has not been levied or paid or short-levied or short-paid or erroneously refunded for the reason mentioned in clause (a) or clause (b)</p>	<p>(i) his own ascertainment of such duty; or</p> <p>(ii) duty ascertained by the Central Excise Officer, the amount of duty along with interest payable thereon under section 11AA.</p> <p>(2) The person who has paid the duty under clause (b) of sub-section (1), shall inform the Central Excise Officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause (a) of that sub-section in respect of the duty so paid or any penalty leviable under the provisions of this Act or the rules made thereunder.</p> <p>(3) Where the Central Excise Officer is of the opinion that the amount paid under clause (b) of sub-section (1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (a) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of Two years shall be computed from the date of receipt of information under sub-section (2).</p> <p>(4) Where any duty of excise has not been levied or paid or has been shortlevied or short-paid or erroneously refunded, by the reason of-</p> <p>(a) fraud; or</p> <p>(b) collusion; or</p> <p>(c) any willful mis-statement; or</p> <p>(d) suppression of facts; or</p> <p>(e) contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty,</p> <p>by any person chargeable with the duty, the Central Excise Officer shall, within five years from the relevant date, serve notice on such person requiring him to show cause why he should not pay the amount specified in the notice along with interest payable thereon under section 11AA and a penalty equivalent to the duty specified in the notice.</p> <p>(5) Where, during the course of any audit, investigation or verification, it is found that any duty has not been levied or paid or short-levied or short-paid or erroneously refunded for the reason</p>	

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			<p>or clause (c) or clause (d) or clause (e) of sub-section (4) but the details relating to the transactions are available in the specified record, then in such cases, the Central Excise Officer shall within a period of five years from the relevant date, serve a notice on the person chargeable with the duty requiring him to show cause why he should not pay the amount specified in the notice along with interest under section 11AA and penalty equivalent to fifty per cent of such duty.</p> <p>(6) Any person chargeable with duty under sub-section (5), may, before service of show cause notice on him, pay the duty in full or in part, as may be accepted by him along with the interest payable thereon under section 11AA and penalty equal to one per cent of such duty per month to be calculated from the month following the month in which such duty was payable, but not exceeding a maximum of twenty-five per cent of the duty, and inform the Central Excise Officer of such payment in writing.</p> <p>7) The Central Excise Officer, on receipt of information under sub-section (6) shall-</p> <p>(i) not serve any notice in respect of the amount so paid and all proceedings in respect of the said duty shall be deemed to be concluded where it is found by the Central Excise Officer that the amount of duty, interest and penalty as provided under sub-section (6) has been fully paid;</p> <p>(ii) proceed for recovery of such amount if found to be short-paid in the manner specified under sub-section (1) and the period of one year shall be computed from the date of receipt of such information.</p> <p>(8) In computing the period of one year referred to in clause (a) of subsection (1) or five years referred to in sub-section (4) or sub-section (5), the period during which there was any stay by an order of the court or Tribunal in respect of payment of such duty shall be excluded.</p> <p>(9) Where any appellate authority or Tribunal or court concludes that the notice issued under sub-section (4) is not sustainable for the reason that the</p>	<p>mentioned in clause (a) or clause (b) or clause (c) or clause (d) or clause (e) of sub-section (4) but the details relating to the transactions are available in the specified record, then in such cases, the Central Excise Officer shall within a period of five years from the relevant date, serve a notice on the person chargeable with the duty requiring him to show cause why he should not pay the amount specified in the notice along with interest under section 11AA and penalty equivalent to fifty per cent of such duty.</p> <p>(6) Any person chargeable with duty under sub-section (5), may, before service of show cause notice on him, pay the duty in full or in part, as may be accepted by him along with the interest payable thereon under section 11AA and penalty equal to one per cent of such duty per month to be calculated from the month following the month in which such duty was payable, but not exceeding a maximum of twenty-five per cent of the duty, and inform the Central Excise Officer of such payment in writing.</p> <p>7) The Central Excise Officer, on receipt of information under sub-section (6) shall-</p> <p>(i) not serve any notice in respect of the amount so paid and all proceedings in respect of the said duty shall be deemed to be concluded where it is found by the Central Excise Officer that the amount of duty, interest and penalty as provided under sub-section (6) has been fully paid;</p> <p>(ii) proceed for recovery of such amount if found to be short-paid in the manner specified under sub-section (1) and the period of Two years shall be computed from the date of receipt of such information.</p> <p>(8) In computing the period of Two years referred to in clause (a) of subsection (1) or five years referred to in sub-section (4) or sub-section (5), the period during which there was any stay by an order of the court or Tribunal in respect of payment of such duty shall be excluded.</p> <p>(9) Where any appellate authority or Tribunal or court concludes that the notice issued under sub-section (4) is not sustainable for the reason that the</p>	

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			<p>charges of fraud or collusion or any wilful mis-statement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty has not been established against the person to whom the notice was issued, the Central Excise Officer shall determine the duty of excise payable by such person for the period of one year, deeming as if the notice were issued under clause (a) of sub-section (1).</p> <p>(10) The Central Excise Officer shall, after allowing the concerned person an opportunity of being heard, and after considering the representation, if any, made by such person, determine the amount of duty of excise due from such person not being in excess of the amount specified in the notice.</p> <p>(11) The Central Excise Officer shall determine the amount of duty of excise under sub-section (10)-</p> <p>(a) within six months from the date of notice in respect of cases falling under subsection (1);</p> <p>(b) within one year from the date of notice in respect of cases falling under subsection (4) or sub-section (5).</p> <p>(12) Where the appellate authority modifies the amount of duty of excise determined by the Central Excise Officer under sub-section (10), then the amount of penalties and interest under this section shall stand modified accordingly, taking into account the amount of duty of excise so modified.</p> <p>(13) Where the amount as modified by the appellate authority is more than the amount determined under sub-section (10) by the Central Excise Officer, the time within which the interest or penalty is payable under this Act shall be counted from the date of the order of the appellate authority in respect of such increased amount.</p> <p>(14) Where an order determining the duty of excise is passed by the Central Excise Officer under this section, the person liable to pay the said duty of excise shall pay the amount so determined along with the interest due on such amount whether or not the amount of interest is specified separately.</p> <p>Explanation.-For the purposes of this section and section 11AC,-</p> <p>(a) "refund" includes rebate of duty of</p>	<p>charges of fraud or collusion or any wilful mis-statement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty has not been established against the person to whom the notice was issued, the Central Excise Officer shall determine the duty of excise payable by such person for the period of two years, deeming as if the notice were issued under clause (a) of sub-section (1).</p> <p>(10) The Central Excise Officer shall, after allowing the concerned person an opportunity of being heard, and after considering the representation, if any, made by such person, determine the amount of duty of excise due from such person not being in excess of the amount specified in the notice.</p> <p>(11) The Central Excise Officer shall determine the amount of duty of excise under sub-section (10)-</p> <p>(a) within six months from the date of notice in respect of cases falling under subsection (1);</p> <p>(b) within Two years from the date of notice in respect of cases falling under subsection (4) or sub-section (5).</p> <p>(12) Where the appellate authority modifies the amount of duty of excise determined by the Central Excise Officer under sub-section (10), then the amount of penalties and interest under this section shall stand modified accordingly, taking into account the amount of duty of excise so modified.</p> <p>(13) Where the amount as modified by the appellate authority is more than the amount determined under sub-section (10) by the Central Excise Officer, the time within which the interest or penalty is payable under this Act shall be counted from the date of the order of the appellate authority in respect of such increased amount. (14) Where an order determining the duty of excise is passed by the Central Excise Officer under this section, the person liable to pay the said duty of excise shall pay the amount so determined along with the interest due on such amount whether or not the amount of interest is specified separately.</p>	

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			<p>excise on excisable goods exported out of India or on excisable materials used in the manufacture of goods which are exported out of India;</p> <p>(b) "relevant date" means,-</p> <p>(i) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid, and no periodical return as required by the provisions of this Act has been filed, the last date on which such return is required to be filed under this Act and the rules made thereunder;</p> <p>(ii) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid and the return has been filed on due date, the date on which such return has been filed;</p> <p>(iii) in any other case, the date on which duty of excise is required to be paid under this Act or the rules made thereunder;</p> <p>(iv) in a case where duty of excise is provisionally assessed under this Act or the rules made thereunder, the date of adjustment of duty after the final assessment thereof;</p> <p>(v) in the case of excisable goods on which duty of excise has been erroneously refunded, the date of such refund;</p> <p>(c) "specified records" means records including computerised records maintained by the person chargeable with the duty in accordance with any law for the time being in force.'</p>	<p>Explanation.-For the purposes of this section and section 11AC,-</p> <p>(a) "refund" includes rebate of duty of excise on excisable goods exported out of India or on excisable materials used in the manufacture of goods which are exported out of India;</p> <p>(b) "relevant date" means,-</p> <p>(i) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid, and no periodical return as required by the provisions of this Act has been filed, the last date on which such return is required to be filed under this Act and the rules made thereunder;</p> <p>(ii) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid and the return has been filed on due date, the date on which such return has been filed;</p> <p>(iii) in any other case, the date on which duty of excise is required to be paid under this Act or the rules made thereunder;</p> <p>(iv) in a case where duty of excise is provisionally assessed under this Act or the rules made thereunder, the date of adjustment of duty after the final assessment thereof;</p> <p>(v) in the case of excisable goods on which duty of excise has been erroneously refunded, the date of such refund;</p> <p>(c) "specified records" means records including computerised records maintained by the person chargeable with the duty in accordance with any law for the time being in force.'</p>	
37B	From the date of Ascent of President of India	Instructions to Central Excise Officers.	<p>The Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963), may, if it considers it necessary or expedient so to do for the purpose of uniformity in the classification of excisable goods or with respect to levy of duties of excise on such goods, issue such orders, instructions and directions to the Central Excise Officers as it may deem fit, and such officers and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the said Board:</p> <p>Provided that no such orders, instructions or directions shall be issued-</p>	<p>The Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (54 of 1963), may, if it considers it necessary or expedient so to do for the purpose of uniformity in the classification of excisable goods or with respect to levy of duties of excise on such goods OR for the implementation of any other provisions of this Act, issue such orders, instructions and directions to the Central Excise Officers as it may deem fit, and such officers and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the said Board :</p>	<p>Section 37B is being amended so as to empower the Board for implementation of any other provision of the said Act in addition to the power to issue orders, instructions and directions Earlier clarifications issued u/s 37B was only applicable for goods and those are binding on Assessee as well as Department. Now, powers has been given to the Central Excise Department even to issue the clarifications u/s 37B for any provisions under the Act.</p>

Sec. No.	Amendment Effective Date	Provision	Existing Provision	Amendment in Existing / New Provision	Analysis
			<p>a) so as to require any Central Excise Officer to make a particular assessment or to dispose of a particular case in a particular manner; or</p> <p>b) so as to interfere with the discretion of the Commissioner of Central Excise (Appeals) in the exercise of his appellate functions.</p>	<p>Provided that no such orders, instructions or directions shall be issued-</p> <p>a) so as to require any Central Excise Officer to make a particular assessment or to dispose of a particular case in a particular manner; or</p> <p>b) so as to interfere with the discretion of the Commissioner of Central Excise (Appeals) in the exercise of his appellate functions.</p>	<p>It means Department may issue the circulars u/s 37B for each provision under this Act and that will be binding on Department as well as Assessee.</p> <p>This is absolutely wrong provision and needs to be represented by Trade &amp; Industries.</p>
Third Schedule	1st March 2016	Deemed Manufacturing	<p>Schedule provides the process which is deemed to be manufactured in accordance with Sec 2(f)(iii).</p> <p>Tariff No. 3401 :</p> <p>Soaps in any form other than the following</p> <p>(i) soap, other than for toilet use, whether or not containing medicament or disinfectant;</p> <p>(ii) soap, in or in relation to the manufacture of which no process has been carried on with the aid of power or of steam; and</p> <p>(iii) laundry soaps produced by a factory owned by the Khadi and Village Industries Commission or any organisation approved by the said Commission for the purpose of manufacture of such soaps</p> <p>Tariff No. 3402 :</p> <p>All goods other than sulphonated castor oil, fish oil or sperm oil</p>	<p>All Goods</p> <p>All Goods</p>	<p>It means, packing, repacking, labeling, relabeling etc for the purpose of retail sale of the following products also will amounts to manufacture:</p> <p>(i) soap, other than for toilet use, whether or not containing medicament or disinfectant;</p> <p>(ii) soap, in or in relation to the manufacture of which no process has been carried on with the aid of power or of steam; and</p> <p>(iii) laundry soaps produced by a factory owned by the Khadi and Village Industries Commission or any organisation approved by the said Commission for the purpose of manufacture of such soaps</p> <p>sulphonated castor oil, fish oil or sperm oil (Tariff No. 3402)</p> <p>All Goods falling under Chapter Heading 7607 related to Aluminum Foil</p> <p>Wrist wearable devices commonly known as Smart Watches falling under Chapter Heading 8517 62</p> <p>Parts, Components and Accessories and Assemblies falling under Chapter Heading 87 excluding vehicle falling under 8712, 8713, 8715, 8716</p> <p>Parts, Components and Accessories and Assemblies falling under Chapter Heading 84 excluding vehicle falling under 8426 4100, 8427, 8429, 8430 10</p>

**CENTRAL EXCISE RULES 2002**

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
Rule 9 of Central Excise Rules, 2002	1st Mar 2016	05/2016-CE(NT) dated 1st Mar 2016	–	Exempts from the separate registration to every manufacturing factory or premises engaged in the manufacture or production of articles of jewellery other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire, falling under chapter heading 7113 (herein after referred to as the specified goods), where the manufacturer of such goods has a centralized billing or accounting system in respect of such specified goods manufactured or produced by different factories or premises and opts for registering only the factory or premises or office, from where such centralized billing or accounting is done and where the accounts/records showing receipts of raw materials and finished excisable goods manufactured or received back from job workers are kept.	Centralized registration system is provided to Manufacturer of articles of jewellery (including articles of studded jewellery tariff heading 7113) subject to centralized billing or accounting is done and where the accounts/records are kept. Provided said manufacturer shall give details of all premises. However this at the option at the manufacturer
Rule 9 of Central Excise Rules, 2002	1st Mar 2016	06/2016-CE(NT) dated 1st Mar 2016	35/2001 CE(NT) dated 26th June 2001 as amended by 7/2015 CE (NT) dated 1st Mar 15	Insertion of sub-clause (iii) to Clause 8 of Notification 3/2001 CE (NT) dated 1st June 2001 as under: "(iii) Every manufacturing factory or premises engaged in the manufacture or production of articles of jewellery other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire, falling under chapter heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), shall be exempted from sub-clauses (i) and (ii) above."	Physical verification of the premises is not required for manufacture or production of articles of jewellery other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire, falling under chapter heading 7113.
	1st Mar 2016	07/2016 CE(NT) dated 1st March 2016	9/2012 CE(NT) dated 17th Mar 2012	Existing Notification No. 9/2012 CE (NT) dated 17th Mar 2012 rescinded.	Now articles of jewellery falling under chapter heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) will be valued at 'Transaction Value' instead of fixed tariff value.
Rule 7 (4) of Central Excise Rules, 2002	1st Mar 2016	08/2016 CE (NT) dated 1st March 2016	The assessee shall be liable to pay interest on any amount payable to Central Government, consequent to order for final assessment under sub-rule (3), at the rate specified by the Central Government by notification issued under section 11AA of the Act from the first day of the month succeeding the month for which such amount is determined, till the date of payment thereof.	Rule 7 sub-rule (4) substituted as under: "(4) The assessee shall be liable to pay interest on any amount paid or payable on the goods under provisional assessment, but not paid on the due date specified under sub-rule (1) of rule 8 and the first proviso thereto, as the case may be, at the rate specified by the Central Government, vide, notification under section 11AA of the Act, for the period starting with the first day after the due date till the date of actual payment, whether such amount is paid before or after the issue of order for final assessment.	In case of provisional assessment Interest will be payable from the due date till date of actual payment instead of first day of succeeding month. e.g. 1. Date of payment of goods under provisional assessment on 29th Feb 16& date of payment of duty is 6th March 2016, date of receipt of order is 1st June 16 and differential liability is Rs. 5,000/- Interest will be applicable from 7th Mar 16 to actual date of payment.

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
Rule 8 of Central Excise Rules, 2002	1st April 2016	08/2016 CE (NT) dated 1st March 2016	Explanation.1. - For the purposes of this proviso, it is hereby clarified that an assessee shall be eligible, if his aggregate value of clearances of all excisable goods for home consumption in the preceding financial year, computed in the manner specified in the said notification, did not exceed rupees four hundred lakhs.	Amendment in Explanation 1 of 2nd proviso to Rule 8 as under: Explanation 1: (a) an assessee, engaged in the manufacture or production of articles of jewellery, other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire, falling under chapter heading 7113 of the First Schedule of the Tariff Act shall be eligible, if his aggregate value of clearances of all excisable goods for home consumption in the preceding financial year, computed in the manner specified in the said notification, did not exceed rupees twelve crore; (b) an assessee, other than (a) above, shall be eligible, if his aggregate value of clearances of all excisable goods for home consumption in the preceding financial year, computed in the manner specified in the said notification, did not exceed rupees four hundred lakhs."	Manufacturers engaged in the manufacture or production of articles of jewellery, other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire, falling under chapter heading 7113 of the First Schedule of the Tariff Act, having aggregate value of clearances below 12 crores in preceding FY may discharge their liability on quarterly basis.
Rule 11 sub-rule (8)	1st April 2016	08/2016 CE (NT) dated 1st March 2016	Provided that where the duplicate copy of the invoice meant for transporter is digitally signed, a hard copy of the duplicate copy of the invoice meant for transporter and self-attested by the manufacturer shall be used for transport of goods.	Provided that where the duplicate copy of the invoice meant for transporter is digitally signed, a hard copy of the duplicate copy of the invoice meant for transporter shall be used for transport of goods.	Now no need to self-attest by manufacturer the duplicate copy of digitally signed invoice for transporter.
Rule 12 sub-rule (2) (a) & (b)	1st April 2016	08/2016 CE (NT) dated 1st March 2016	(2) (a) Notwithstanding anything containing in sub-rule (1), every assessee shall submit to the Superintendent of Central Excise, an Annual Financial Information Statement for the preceding financial year to which the statement relates in the form specified by notification by the Board by 30th day of November of the succeeding year. (b) The Central Government may, by notification, and subject to such conditions or limitations as may be specified in such notification, specify assessee or class of assessee who may not require to submit such an Annual Financial Information Statement.	Substitution of the word 'Annual Financial Information Statement' by the word 'Annual Return'	The word 'Annual Financial Information Statement' (i.e. for ER-4 Return) substituted by the word 'Annual Return'
Rule 12 sub-rule 2 (c)	1st April 2016	08/2016 CE (NT) dated 1st March 2016	-	Newly inserted (c) provisions of this sub-rule and clause (b) of sub-rule (8) shall mutatis mutandis apply to a hundred per cent. Export-Oriented.	This provision is also applicable to EOU including that of revised return as specified under sub-rule 8.
Rule 12 sub-rule 2A	1st April 2016	08/2016 CE (NT) dated 1st March 2016	(2A) (a) Every assessee shall submit to the Superintendent of Central Excise, an Annual Installed Capacity Statement declaring the annual production capacity of the factory for the	(iii) sub-rule (2A) shall be omitted;	Henceforth ER-7 Return i.e. for filing of 'Annual Installed Capacity Statement' is not required to file from FY 2016-17. Any way no one was serious on filing & checking the same.

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
			financial year to which the statement relates in the form specified by notification by the Board by 30th day of April of the succeeding financial year : Provided that for the year 2007-08, the said statement shall be furnished by 31st day of October, 2008.		
Rule 12 sub-rule 6	1st April 2016	08/2016 CE (NT) dated 1st March 2016	(6) Where any return or Annual Financial Information Statement or Annual Installed Capacity Statement referred to in this rule is submitted by the assessee after due date as specified for every return or statements, the assessee shall pay to the credit of the Central Government, an amount calculated at the rate of one hundred rupees per day subject to a maximum of twenty thousand rupees for the period of delay in submission of each such return or statement.	In sub-rule 6 the words Annual Financial Information Statement or Annual Installed Capacity Statement shall be omitted.	
Rule 12	1st April 2016	08/2016 CE (NT) dated 1st March 2016	–	after sub-rule (7), the following sub-rule shall be inserted, namely:- " (8)(a) An assessee, who has filed a return in the form referred to in sub-rule(1) within the date specified under that sub-rule or the second proviso thereto, may submit a revised return by the end of the calendar month in which the original return is filed.  Explanation.- Where an assessee submits a revised return under clause (a), the "relevant date" for the purpose of recovery of Central Excise duty, if any, under section 11A of the Act shall be the date of submission of such revised return.  (b) An assessee who has filed Annual Return referred to in clause (a) of sub-rule (2) by the due date mentioned in clause (a) of that sub-rule, may submit a revised return within a period of one month from the date of submission of the said Annual Return.	Welcome move allowing filing of revised return by the end of the calendar month in which the original return is filed.  Relevant date for the purpose of recovery of CE duty under Section 11A shall be the date of submission of said revised return.  However in care of revised 'Annual Return' (ER-4) it may be submitted in month from the date of filing of original return.
Rule 17	1st April 2016	08/2016 CE (NT) dated 1st March 2016	–	"(7) An assessee, who has filed a return in the form referred to in sub-rule (3) within the date specified under that sub-rule, may submit a revised return by the end of the calendar month in which the original return is filed.  Explanation.- Where an assessee submits a revised return under this sub-rule, the "relevant date" for the purpose of recovery of Central Excise duty, if any, under section 11A of the Act shall be the date of submission of such revised return";	Above mentioned provisions w.r.t Revised Return, Relevant date and monthly return in case of EOU will be same.

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
Rule 26 sub-rule (1)	1st April 2016	08/2016 CE (NT) dated 1st March 2016	–	"Provided that where any proceeding for the person liable to pay duty have been concluded under clause (a) or clause (d) of sub-section (1) of section 11AC of the Act in respect of duty, interest and penalty, all proceedings in respect of penalty against other persons, if any, in the said proceedings shall also be deemed to be concluded.	This is welcome provision, no personal penalty on any other person can be imposed if assessee pays the duty with interest and penalty under section 11AC is paid then

**CENVAT CREDIT RULES 2004**

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
Rule 2 (a)	1st April 2016	13/2016-CE (NT) dated 1st Mar 2016	–	Definition of Capital Goods added wagons of sub-heading 860692	Cenvat Credit of wagons brought by service providers will be available.
Rule 2 (a)	1st April 2016	13/2016-CE (NT) dated 1st Mar 2016	Capital goods ... (1) in the factory of the manufacturer of the final products, but does not include any equipment or appliance used in an office; or	Definition of Capital Goods: (1) in the factory of the manufacturer of the final products	The wording equipments or appliances used in an office have been removed. Hence forwards, Cenvat credit will be allowed on the goods / equipment which are used in the office within the factory. No of litigations will be reduced.
Rule 2 (a)	1st April 2016	13/2016-CE (NT) dated 1st Mar 2016	Capital goods ... Used (1A) outside the factory of the manufacturer of the final products for generation of electricity for captive use within the factory; or;	Definition of Capital Goods: (1A) outside the factory of the manufacturer of the final products for generation of electricity or for pumping of water for captive use within the factory; or;	Goods used for pumping of water for captive use will be entitled for Cenvat credit as Capital Goods.
Rule 2 (e)	1st March 2016	13/2016-CE (NT) dated 1st Mar 2016	Exempted Service.... (3) taxable service whose part of value is exempted on the condition that no credit of inputs and input services, used for providing such taxable service, shall be taken; but shall not include a service which is exported in terms of rule 6A of the Service Tax Rules, 1994	Exempted Service (3).... – but shall not include a service – (a) which is exported in terms of rule 6A of the Service Tax Rules, 1994; or (b) by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India;	Transportation of goods by a vessel from customs station of clearance in India to a place outside India is also excluded from Definition of Exempted services.
Rule 2 (k)	1st April 2016	13/2016-CE (NT) dated 1st Mar 2016	(k) "input" means--- (iii) all goods used for generation of electricity or steam for captive use; or	(iii) all goods used for generation of electricity or steam or pumping of water for captive use; or	Goods (other than capital goods) used for pumping of water for captive use will be entitled for Cenvat Credit as Inputs.
Rule 2 (k)	1st April 2016	13/2016-CE (NT) dated 1st Mar 2016	NA	(v) all capital goods which have a value upto ten thousand rupees per piece	Capital Goods having value Rs 10,000 or less will be treated as Inputs Goods. In other words, full cenvat credit will be allowed on those goods.
Rule 2 (m)	1st April 2016	13/2016-CE (NT) dated 1st Mar 2016	(m) "input service distributor" means an office of the manufacturer or producer of final products or provider of output service, which receives invoices issued under rule 4A of the Service Tax Rules, 1994 towards purchases of input services and issues invoice, bill or, as the case may be, challan for the purposes of distributing the credit of	(m) "input service distributor" means an office of the manufacturer or producer of final products or provider of output service or an outsourced manufacturing unit, which receives invoices issued under rule 4A of the Service Tax Rules, 1994 towards purchases of input services and issues invoice, bill or, as the case may be, challan for the purposes	The definition of ISD has been amended to include the "outsourced manufacturing unit" (i.e. Job Worker). The subsequent provisions are made w.r.t distribution of credit to the outsourced manufacturing unit who is discharging the duty under Rule 10 of Valuation Rules

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
			service tax paid on the said services to such manufacturer or producer or provider, as the case may be;	of distributing the credit of service tax paid on the said services to such manufacturer or producer or provider, as the case may be;	
Rule 3 Sub rule (4)	1st March 2016	13/2016-CE (NT) dated 1st Mar 2016	Provided also that the CENVAT credit of any duty specified in sub-rule (1), except the National Calamity Contingent duty in item (v) thereof, shall not be utilized for payment of the said National Calamity Contingent duty on goods falling under tariff items 85171210 and 85171290 respectively of the First Schedule of the Central Excise Tariff:	Provided also that the CENVAT credit of any duty specified in sub-rule (1), except the National Calamity Contingent duty in item (v) thereof, shall not be utilized for payment of the National Calamity Contingent duty leviable under section 136 of the Finance Act, 2001 (14 of 2001)	Utilization of other duties (other than NCCD) in cenvat credit was restricted only for payment of NCCD on Push button style Telephone Sets and Wireless Cellphone (8517 12 10) and other Telephone Sets and Wireless Cellphone (8517 12 90). For NCCD on other goods, the basic Cenvat duties were allowed to be utilized.  With this amendment basic duties cannot be utilized for payment of NCCD on any goods.
Rule 3 Sub rule (4)	1st March 2016	13/2016-CE (NT) dated 1st Mar 2016	NA	Provided also that CENVAT credit shall not be utilised for payment of Infrastructure Cess leviable under sub-clause (1) of clause 159 of the Finance Bill, 2016	The Cenvat credit cannot be utilized for Infrastructure Cess levied on the specified automobiles under chapter 87
Rule 4 - Sub-rule 2 (Clause a)	1st March 2016	13/2016-CE (NT) dated 1st Mar 2016	- Explanation. - For the removal of doubts, it is hereby clarified that an assessee, shall be eligible, if his aggregate value of clearances of all excisable goods for home consumption in the preceding financial year, computed in the manner specified in the said notification, did not exceed rupees four hundred lakhs.	- Explanation. - For the removal of doubts, it is hereby clarified that- (i) an assessee engaged in the manufacture of articles of jewellery, other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire, falling under chapter heading 7113 of the First Schedule of the Excise Tariff Act, shall be eligible, if his aggregate value of clearances of all excisable goods for home consumption in the preceding financial year, computed in the manner specified in the said notification, did not exceed rupees twelve crore;  (ii) an assessee, other than (a) above, shall be eligible, if his aggregate value of clearances of all excisable goods for home consumption in the preceding financial year, computed in the manner specified in the said notification, did not exceed rupees four hundred lakhs	The articles of jewellery, other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire, falling under chapter heading 7113 having turnover below 12 cr will be entitled for full credit of capital goods in the same year in which it has received.
Rule 4 sub-rule 5 clause (b)	1st April 2016	13/2016-CE (NT) dated 1st Mar 2016	- (b) The CENVAT credit shall also be allowed to a manufacturer of final products in respect of jigs, fixtures, moulds and dies or tools sent by such manufacturer to, - (i) another manufacturer for the production of goods; or (ii) a job worker for the production of goods on his behalf, according to his specifications:	- (b) The CENVAT credit shall also be allowed to a manufacturer of final products in respect of jigs, fixtures, moulds and dies or tools falling under Chapter 82 of the First Schedule to the Excise Tariff Act, sent by such manufacturer to, (i) another manufacturer for the production of goods; or (ii) a job worker for the production of goods on his behalf, according to his specifications:	The jigs, fixtures falling under ITCHS 82 now can be sent directly to the job workers without bringing the same in the factory of the manufacturer. In other words, the manufacturer will be entitled for cenvat credit on the jigs which are sent directly to job worker.

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
				Provided that such credit shall also be allowed where jigs, fixtures, moulds and dies or tools falling under Chapter 82 of the First Schedule to the Excise Tariff Act, are sent by the manufacturer of final products to the premises of another manufacturer or job worker without bringing these to his own premises	
Rule 4 sub-rule 6	1st April 2016	13/2016-CE (NT) dated 1st Mar 2016	(6) The Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, having jurisdiction over the factory of the manufacturer of the final products who has sent the input or partially processed inputs outside his factory to a job-worker may, by an order, which shall be valid for a financial year, in respect of removal of such input or partially processed input, and subject to such conditions as he may impose in the interest of revenue including the manner in which duty, if leviable, is to be paid, allow final products to be cleared from the premises of the job-worker.	(6) The Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, having jurisdiction over the factory of the manufacturer of the final products who has sent the input or partially processed inputs outside his factory to a job-worker may, by an order, which shall be valid for three financial year, in respect of removal of such input or partially processed input, and subject to such conditions as he may impose in the interest of revenue including the manner in which duty, if leviable, is to be paid, allow final products to be cleared from the premises of the job-worker.	The permission can be given by the Deputy Commissioner / Assistant Commissioner upto period 3 years for clearance of final products from the job worker premises.
Rule 4 sub-rule 6	1st April 2016	13/2016-CE (NT) dated 1st Mar 2016	NA	Provided also that CENVAT Credit of Service Tax paid on the charges paid or payable for the service provided by way of assignment, by the Government or any other person, of the right to use any natural resource, shall be spread over such period of time as the period for which the right to use has been assigned. CENVAT Credit in the financial year in which the right to use is acquired and in the subsequent years during which such right is retained by the manufacturer of goods or provider of output service as the case may be, shall be taken of an amount determined as per the following formula: 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 Provided also that where the manufacturer of goods or provider of output service, as the case may be, further assigns such right to use assigned to him by the Government or any other person, in any financial year, to another person against a consideration, such amount of balance CENVAT credit as does not exceed the service tax payable on the consideration charged by him for such further assignment, shall be allowed in the same financial year	The cenvat credit on the service tax paid on payment on right of natural resources will available as Cenvat Credit proportionately over the period of assignment of such right.

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
				Provided also that CENVAT credit of annual or monthly user charges payable in respect of any service by way of assignment of right to use natural resources shall be allowed in the same financial year in which they are paid.	
Rule 6 Sub-rule (1)	1st April 2016	13/2016 CE (NT) dated 1st Mar 2016	<p>6. Obligation of a manufacturer or producer of final products and a provider of output service</p> <p>(1) The CENVAT credit shall not be allowed on such quantity of input used in or in relation to the manufacture of exempted goods or for provision of exempted services, or input service used in or in relation to the manufacture of exempted goods and their clearance upto the place of removal or for provision of exempted services, except in the circumstances mentioned in sub-rule (2).</p> <p>Provided that the CENVAT credit on inputs shall not be denied to job worker referred to in rule 12AA of the Central Excise Rules, 2002, on the ground that the said inputs are used in the manufacture of goods cleared without payment of duty under the provisions of that rule.</p> <p>Explanation 1. - For the purposes of this rule, exempted goods or final products as defined in clauses (d) and (h) of rule 2 shall include non-excisable goods cleared for a consideration from the factory.</p> <p>Explanation 2. - Value of non-excisable goods for the purposes of this rule, shall be the invoice value and where such invoice value is not available, such value shall be determined by using reasonable means consistent with the principles of valuation contained in the Excise Act and the rules made thereunder.</p>	<p>The CENVAT credit shall not be allowed on such quantity of input as is used in or in relation to the manufacture of exempted goods or for provision of exempted services or input service as is used in or in relation to the manufacture of exempted goods and their clearance upto the place of removal or for provision of exempted services and the credit not allowed shall be calculated and paid by the manufacturer or the provider of output service, in terms of the provisions of sub-rule (2) or sub-rule (3), as the case may be :</p> <p>Provided that the CENVAT credit on inputs shall not be denied to job worker referred to in rule 12AA of the Central Excise Rules, 2002, on the ground that the said inputs are used in the manufacture of goods cleared without payment of duty under the provisions of that rule.</p> <p>Explanation 1. - For the purposes of this rule, exempted goods or final products as defined in clauses (d) and (h) of rule 2 shall include non-excisable goods cleared for a consideration from the factory.</p> <p>Explanation 2.- Value of non-excisable goods for the purposes of this rule, shall be the invoice value and where such invoice value is not available, such value shall be determined by using reasonable means consistent with the principles of valuation contained in the Excise Act and the rules made there under.</p> <p>Explanation 3. - For the purposes of this rule, exempted services as defined in clause (e) of rule 2 shall include an activity, which is not a 'service' as defined in section 65B(44) of the Finance Act, 1994.</p> <p>Explanation 4. - Value of such an activity as specified above in Explanation 3, shall be the invoice/agreement/contract value and where such value is not available, such value shall be determined by using reasonable means consistent with the principles of valuation contained in the Finance Act, 1994 and the rules made thereunder.?(; (b) for s</p>	<p>Exempted service for this Rule has been defined as an activity, which is not a 'service' as defined in section 65B(44) of the Finance Act, 1994 and value for the same shall be the invoice/agreement/contract value and where such value is not available, such value shall be determined by using reasonable means consistent with the principles of valuation contained in the Finance Act, 1994.</p> <p>For example if exports of services are made but realization is not in FC or remittance has not been received than such services will also be considered as exempted services.</p> <p>Similarly value of exempted goods will also include goods which are not excisable or covered under state excise and valuation of the same will be in accordance with valuation Rules.</p>

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
Rule 6 Sub-rule (2)	1st April 2016	13/2016 CE (NT) dated 1st Mar 2016	<p>(2) Where a manufacturer or provider of output service avails of CENVAT credit in respect of any inputs or input services and manufactures such final products or provides such output service which are chargeable to duty or tax as well as exempted goods or services, then, the manufacturer or provider of output service shall maintain separate accounts for-</p> <p>(a) the receipt, consumption and inventory of inputs used-</p> <p>(i) in or in relation to the manufacture of exempted goods;</p> <p>(ii) in or in relation to the manufacture of dutiable final products excluding exempted goods;</p> <p>(iii) for the provision of exempted services;</p> <p>(iv) for the provision of output services excluding exempted services; and</p> <p>(b) the receipt and use of input services-</p> <p>(i) in or in relation to the manufacture of exempted goods and their clearance upto the place of removal;</p> <p>(ii) in or in relation to the manufacture of dutiable final products, excluding exempted goods, and their clearance upto the place of removal;</p> <p>(iii) for the provision of exempted services; and</p> <p>(iv) for the provision of output services excluding exempted services, and shall take CENVAT credit only on inputs under sub-clauses (ii) and (iv) of clause (a) and input services under sub-clauses (ii) and (iv) of clause (b).;9ii</p>	<p>–(2) A manufacturer who exclusively manufactures exempted goods for their clearance upto the place of removal or a service provider who exclusively provides exempted services shall pay the whole amount of credit of input and input services and shall, in effect, not be eligible for credit of any inputs and input services.–;</p>	<p>Sub-rule 2 of Rule 6 has been substituted and the provision of maintenance of separate records of consumption &amp; inventory of inputs / input services used in or in relation to manufacture of exempted goods &amp; provision of exempted service is omitted.</p>
Rule 6 Sub-rule (3)	1st April 2016	13/2016 CE (NT) dated 1st Mar 2016	<p>(3) Notwithstanding anything contained in sub-rules (1) and (2), the manufacturer of goods or the provider of output service, opting not to maintain separate accounts, shall follow any one of the following options, as applicable to him, namely:-</p> <p>(i) pay an amount equal to six per cent. of value of the exempted goods and seven per cent. of value of the exempted services; or</p> <p>(ii) pay an amount as determined under sub-rule (3A); or</p> <p>(iii) maintain separate accounts for the receipt, consumption and inventory of inputs as provided for in clause (a) of sub-rule (2), take CENVAT credit only on inputs under subclauses</p>	<p>(3) (a) A manufacturer who manufactures two classes of goods, namely :-</p> <p>(i) non-exempted goods removed;</p> <p>(ii) exempted goods removed;</p> <p>or</p> <p>(b) a provider of output service who provides two classes of services, namely:-</p> <p>(i) non-exempted services;</p> <p>(ii) exempted services,</p> <p>shall follow any one of the following options applicable to him, namely :-</p> <p>(i) pay an amount equal to six per cent. of value of the exempted goods and seven per cent. of value of the exempted services subject to a maximum of the total credit available in the account of the assessee at the end of the period to which the payment relates; or</p>	<p>Clause (iii) of sub-rule 3 of Rule 6 is omitted only 2 options for reversal of cenvat credit are specified.</p> <ol style="list-style-type: none"> <li>1. Reversal cenvat credit of 6% value of exempted goods &amp; reversal of cenvat credit of 7% of value of exempted services.</li> <li>2. Reverse cenvat credit as per sub-Rule 3A.</li> </ol> <p>Non-exempted goods , exempted goods and exempted services are defined separately.</p>

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
			<p>(ii) and (iv) of said clause (a) and pay an amount as determined under sub-rule (3A) in respect of input services. The provisions of sub-clauses (i) and (ii) of clause (b) and subclauses (i) and (ii) of clause (c) of sub-rule (3A) shall not apply for such payment:</p> <p>Provided that if any duty of excise is paid on the exempted goods, the same shall be reduced from the amount payable under clause (i):</p> <p>Provided further that if any part of the value of a taxable service has been exempted on the condition that no CENVAT credit of inputs and input services, used for providing such taxable service, shall be taken then the amount specified in clause (i) shall be seven per cent. of the value so exempted.</p> <p>Provided that in case of transportation of goods or passengers by rail the amount required to be paid under clause (i) shall be an amount equal to 2 per cent. of value of the exempted services.</p> <p>(ii) the manufacturer of goods or the provider of output service shall pay an amount equivalent to the CENVAT credit attributable to inputs and input services used in, or in relation to, the manufacture of exempted goods or for provision of exempted services subject to the conditions and procedure specified in sub-rule (3A).</p> <p>Explanation I.- If the manufacturer of goods or the provider of output service, avails any of the option under this sub-rule, he shall exercise such option for all exempted goods manufactured by him or, as the case may be, all exempted services provided by him, and such option shall not be withdrawn during the remaining part of the financial year.</p> <p>Explanation II.- For removal of doubt, it is hereby clarified that the credit shall not be allowed on inputs used exclusively in or in relation to the manufacture of exempted goods or for provision of exempted services and on input services used exclusively in or in relation to the manufacture of exempted goods and their clearance upto the place of removal or for provision of exempted services.</p> <p>Explanation III. - No CENVAT credit shall be taken on the duty or tax paid on any goods and services that are not inputs or input services.</p>	<p>(ii) pay an amount as determined under sub-rule (3A):</p> <p>Provided that if any duty of excise is paid on the exempted goods, the same shall be reduced from the amount payable under clause (i) :</p> <p>Provided further that if any part of the value of a taxable service has been exempted on the condition that no CENVAT credit of inputs and input services, used for providing such taxable service, shall be taken then the amount specified in clause (i) shall be seven per cent. of the value so exempted :</p> <p>Provided also that in case of transportation of goods or passengers by rail, the amount required to be paid under clause (i) shall be an amount equal to two per cent. of value of the exempted services.</p> <p>Explanation 1.- If the manufacturer of goods or the provider of output service, avails any of the option under this sub-rule, he shall exercise such option for all exempted goods manufactured by him or, as the case may be, all exempted services provided by him, and such option shall not be withdrawn during the remaining part of the financial year.</p> <p>Explanation 2.-No CENVAT credit shall be taken on the duty or tax paid on any goods and services that are not inputs or input services.</p> <p>Explanation 3.- For the purposes of this sub-rule and sub-rule(3A),-</p> <p>(a) ?non-exempted goods removed? means the final products excluding exempted goods manufactured and cleared upto the place of removal;</p> <p>(b) ?exempted goods removed? means the exempted goods manufactured and cleared upto the place of removal;</p> <p>(c) ?non-exempted services? means the output services excluding exempted services.-;</p>	

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
Rule 6 sub-rule 3A	1st April 2016	13/2016 CE (NT) dated 1st Mar 2016	–	–	<p>Formula for calculation of proportionate reversal of cenvat credit as per sub-rule 3A has been revised as follows</p> <p>T= Total Cenvat credit of input and input services available.</p> <p>A= Cenvat credit pertains to input and input services exclusively attributable to exempted goods / exempted services.</p> <p>B= Cenvat credit pertains to input and input services exclusively attributable to non-exempted goods / non-exempted services.</p> <p>C=Common credit</p> <p><math>C = T - (A+B)</math></p> <p><math>D = (E/F) * C</math></p> <p>E=Value of exempted services+ value of exempted goods during the preceding financial year.</p> <p>F=sum of value of exempted services &amp; goods and value of non-exempted services &amp; goods</p> <p>G= common eligible credit</p> <p><math>G = C - D</math>.</p> <p>Total credit to be retained = B+G</p> <p>The above calculation to be done monthly on provisional based on turnover of previous year and subsequently to be finalized on or before 30th June of subsequent year and pay differential amount along with interest</p>
Rule 6 sub-rule 3AA	1st April 2016	13/2016 CE (NT) dated 1st Mar 2016	–	<p>Where a manufacturer or a provider of output service has failed to exercise the option under sub-rule (3) and follow the procedure provided under sub-rule (3A), the Central Excise Officer competent to adjudicate a case based on amount of CENVAT credit involved, may allow such manufacturer or provider of output service to follow the procedure and pay the amount referred to in clause (ii) of sub-rule (3), calculated for each of the months, mutatis-mutandis in terms of clause (c) of sub-rule (3A), with interest calculated at the rate of fifteen per cent. per annum from the due date for payment of amount for each of the month, till the date of payment thereof.</p>	<p>Central Excise Officer competent to adjudicate may allow manufacturer or service provider to follow the procedure and pay the amount along with interest @ 15% till the date of payment.</p> <p>If option has not been chosen, then CE officer will adjudicate in accordance with sub-Rule 3A</p>
Rule 6 sub-rule 3AB	1st April 2016	13/2016 CE (NT) dated 1st Mar 2016	–	<p>Assessee who has opted to pay an amount under clause (ii) or clause (iii) of sub-rule (3) in the financial year 2015-16, shall pay the amount along with interest or take credit for the said financial year in terms of clauses (c), (d), (e), (f), (g), (h) or (i) of sub-rule (3A), as they prevail on the day of publication of this notification and for this purpose these provisions shall be deemed to be in existence till the 30th June, 2016.?</p>	<p>The person who has opted to pay amount under sub-rule (3) in the financial year 2015-16, shall pay duty along with interest or avail credit till 30th June 2016 in terms of clauses (c), (d), (e), (f), (g), (h) or (i) of sub-rule (3A).</p>

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
Rule 6 sub-rule 3B	1st April 2016	13/2016 CE (NT) dated 1st Mar 2016	(3B) Notwithstanding anything contained in sub-rules (1), (2) and (3), a banking company and a financial institution including a non-banking financial company, shall pay for every month an amount equal to fifty per cent. of the CENVAT credit availed on inputs and input services in that month.	A banking company and a financial institution including a non-banking financial company, engaged in providing services by way of extending deposits, loans or advances, in addition to options given in sub-rules (1), (2) and (3), shall have the option to pay for every month an amount equal to fifty per cent. of the CENVAT credit availed on inputs and input services in that month.;	A banking company and a financial institution including a non-banking financial company shall pay 50% of cenvat credit availed on inputs on input services in the month.
Rule 6 sub-rule 4	1st April 2016	13/2016 CE (NT) dated 1st Mar 2016	(4) No CENVAT credit shall be allowed on capital goods which are used exclusively in the manufacture of exempted goods or in providing exempted services, other than the final products which are exempt from the whole of the duty of excise leviable thereon under any notification where exemption is granted based upon the value or quantity of clearances made in a financial year.	No CENVAT credit shall be allowed on capital goods used exclusively in the manufacture of exempted goods or in providing exempted services for a period of two years from the date of commencement of the commercial production or provision of services, as the case may be, other than the final products or output services which are exempt from the whole of the duty of excise leviable thereon under any notification where exemption is granted based upon the value or quantity of clearances made or services provided in a financial year:  Provided that where capital goods are received after the date of commencement of commercial production or provision of services, as the case may be, the period of two years shall be computed from the date of installation of such capital goods.	The said provision has been inserted mainly for goods exempted on quantity and value of clearances and cenvat credit availed after 2 years from date installation or when exemption w.r.t. quantity and value is exhausted

**Pan Masala Packing Machines (Capacity Determination And Collection of Duty) Rules, 2008**

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
Form 2	1st Mar 2016	9/2016 CE (NT) dated 1st Mar 2016	Table contents at Serial No. 4 Item (iv)	Table contents at Serial No. 4 Item (iv)	Changes in duty ratio Pan Masala and Pan Masala containing Tobacco.

**Chewing Tobacco and Unmanufactured Tobacco Packing Machines (Capacity Determination and Collection of Duty) Rules, 2010**

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
Rule 5	1st Mar 2016	10/2016 CE (NT) dated 1st Mar 2016	Table 1 & 2 of Rule 5	Amendment in Table 1 & 2 of Rule 5	Formula has been changed for fixation of capacity under section 3A Changes in Categories specified for speed for Capacity of production per packing machine per month for Chewing tobacco including Filter Khaini (number of pouches) as well as for Jarda Scented Tobacco and

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
					Unmanufactured Tobacco and unmanufactured tobacco. Explanation added: for multiple tracks or multiple line packing machines for the purpose of calculation of number of pouches per machine per month, one track or line shall be deemed to be one individual packing machine.
Rule 6	1st Mar 2016	10/2016 CE (NT) dated 1st Mar 2016	–	Provided also that the Capacity of production for the period from 1st day of March, 2016 shall be re-determined by the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, within three working days of the coming into force of the Chewing Tobacco and Unmanufactured Tobacco Packing Machines (Capacity Determination and Collection of Duty) Amendment Rules, 2016	DC / AC of Central excise as the case may be shall within 3 working days of issuance of this notification shall redefine annual capacity of production for the period from 1st Mar 2016.
Rule 9	1st Mar 2016	10/2016 CE (NT) dated 1st Mar 2016	–	Provided also that monthly duty payable for the month of March, 2016 shall be paid on or before the 15th day of March, 2016	Duty payable for the month of Mar 2016 to be paid on or before 15th March 2016.
Form 2	1st Mar 2016	10/2016 CE (NT) dated 1st Mar 2016	Table contents at Serial No. 4 Item (iv)	Substitution of Table contents at Serial No. 4 Item (iv)	Changes in breakup of duty ratio w.r.t. Chewing Tobacco.

### Abatement

Rule No.	Amendment Effective Date	Notification No.	Existing Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
61 & 62	1st Mar 2016	11/2016 (NT) dated 1st Mar 2016	20/2001 C E ( N T ) dated 30th April 2001	Tariff value for articles of apparel and clothing accessories fixed @ 30% of retail sale price	Amendment in the tariff values of articles of apparel and clothing accessories	Tariff value has been increased from 30% to 60% of retail sale price of articles of apparel and clothing accessories.  In other words abatement % has been reduced
3401 & 3402	1st Mar 2016	12/2016 (NT) dated 1st Mar 2016	49/2008 C E ( N T ) dated 24th Dec 2008	340119 or 34012000 i.e. Soap (other than paper, wadding, felt and non-wovens, impregnated, coated or covered with soap or detergent) 340111, 340119 or 3402: Organic surface active products and preparations for use as soap in the form of bars, cakes, moulding pieces or shapes, other than goods falling under 34029020	All goods covered under Tariff heading 3401 and 3402 are covered for abatement percentage of retail sale price.	30% abatement in retail price will be applicable to Soaps, Organic surface active products and preparations for use as soap, Organic surface active agents, Surface active preparations, washing preparations and cleaning preparations etc. falling under tariff heading 3402 and 3402
64	1st Mar 2016	12/2016 (NT) dated 1st Mar 2016	49/2008 C E ( N T ) dated 24th Dec 2008	Rate of abatement @ 25% on retail sale price of all Foot wares at Sr. No.56	Rate of abatement @ 30% on retail sale price of all Foot wares at Sr. No. 56	Increase in rate of abatement from 25% to 30% on retail sale price of all Foot wares.

Rule No.	Amendment Effective Date	Notification No.	Existing Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
7607	1st Mar 2016	12/2016 (NT) dated 1st Mar 2016	49/2008 CE (NT) dated 24th Dec 2008	–	Abatement @25% has been provided on all goods falling under Tariff 7607 i.e. for Aluminium foil of thickness not exceeding 0.2mm	Abatement @25% has been provided on all goods falling under Tariff 7607
851762	1st Mar 2016	12/2016 (NT) dated 1st Mar 2016	49/2008 CE(NT)dt. 24 <sup>th</sup> Dec 2008	–	Abatement @ 35% has been provided on smart watches	Abatement @ 35% has been provided on smart watches
Any Chapter	1st Mar 2016	12/2016 (NT) dated 1st Mar 2016	49/2008 CE (NT) dated 24th Dec 08	At Ar. No. 108 & 109 with description 'Parts, components and assemblies'	Accessories have been added in this description.	Accessories of vehicles will also be eligible for abatement @ 30%

**Central Excise NT 2016-17 – Others**

Existing Notification	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
27/2012 - C.E. (N.T.) dated 18th June, 2012	1st March 2016	14/2016 - CE (N.T) dated 1st Mar 2016	No. 27/2012 - C.E. (N.T.) dated 18th June, 2012 para 3 (b): (b) The application in the Form A along with the documents specified therein and enclosures relating to the quarter for which refund is being claimed shall be filed by the claimant, before the expiry of the period specified in section 11B of the Central Excise Act, 1944 (1 of 1944).	No. 27/2012 - C.E. (N.T.) dated 18th June, 2012 para 3 (b) substituted as under: "(b) The application in the Form A along with the documents specified therein and enclosures relating to the quarter for which refund is being claimed shall be filed as under: (i) in case of manufacturer, before the expiry of the period specified in section 11B of the Central Excise Act, 1944 (1 of 1944); (ii) in case of service provider, before the expiry of one year from the date of (a) receipt of payment in convertible foreign exchange, where provision of service had been completed prior to receipt of such payment; or (b) issue of invoice, where payment for the service had been received in advance prior to the date of issue of the invoice."	Welcome provision for clarifying relevant date Relevant date for filing of Refund claim w.r.t. Services has been prescribed as 1. When service is completed: date of receipt of payment in convertible foreign exchange, 2. When Advance is received: date of issue of invoice.
5/2011 - CE (NT) dated 1st Mar 2011	1st April 2016	15/2016 - CE (N.T) dated 1st Mar 2016	Rate of interest on delayed payment / short payment of Central Excise duty was 18% p.a.	Rate of interest on delayed payment/ short payment of Central Excise duty is fixed @ 15% p.a.	Rate of interest on delayed payment/short payment of Excise Duty is reduced from 18% to 15% p. a.
42/2001-CE (NT) dated 26 June 2001	1st Mar 2016	16/2016 - CE (N.T) dated 1st Mar 2016	Reference of Section 11AB for levy of interest is stated in Notification No.42/ 2001	Correct reference of Interest Section 11AA has been done.	Correction of relevant section of interest.
31/2007-CE(NT) dated 2nd Aug 2007	1st Mar 2016	17/2016 - CE (N.T) dated 1st Mar 2016	Reference of Section 11AB for levy of interest is stated in Notification No.37/ 2007 in Para 6 clause (ii)	Correct reference of Interest Section 11AA has been done.	Correction of relevant section of interest.

Existing Notification	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
19/2004-CE(NT) dated 6th Sept 2004	1st Mar 2016	18/2016 - CE (N.T) dated 1st Mar 2016	Conditions and Limitations: (e) that the market price of the excisable goods at the time of exportation is not less than the amount of rebate of duty claimed;	(1) under heading "(2) Conditions and limitations", in paragraph (e), for the words "the market price", the words "the Indian market price" shall be substituted; (2) under heading "(3) Procedures", in paragraph (b), in sub-paragraph (i), after the words "shall be lodged", the words, figures, letter and brackets "before the expiry of the period specified in section 11B of Central Excise Act, 1944(1 of 1944)" shall be inserted	Indian market price of the excisable goods at the time of exportation should not be less than the amount of rebate of duty claimed. i. e. in case of FOC exports rebate is not eligible.  Limitation period for filing of Rebate Claim is specifically prescribed as one year from the date of let export order as per Section 11B.
36/2001-CE(NT) dated 26th June 2001	1st Mar 2016	19/2016 - CE (N.T) dated 1st Mar 2016	(3) hereby declares that if two or more premises of the same factory are separated by public road, railway line or canal, the Commissioner of Central Excise may, subject to proper accountal of the movement of goods from one premise to other and such other conditions and limitations, allow single registration.	"(3) hereby declares that if two or more premises of the same factory are located within a close area in the jurisdiction of a Range Superintendent, the manufacturing process undertaken therein are interlinked, and the units are not operating under any of the area based exemption notifications, the Commissioner of Central Excise, may, subject to proper accountal of the movement of goods from one premise to other and such other conditions and limitations as he may impose, allow single registration."	This is welcome provision for ease of doing business even though the units are not inter linked but are closed.  Now two or more premises of the same factory within the close area and the manufacturing process undertaken therein are interlinked without any separation by public road, railway line or canal, The Commissioner of Central Excise may allow single registration.
21/2004-CE (NT) dated 6th Sept 2004	1st Mar 2016	21/2016 - CE (N.T) dated 1st Mar 2016	—	(1B) The declaration filed under paragraph (1A) shall be accompanied by a Chartered Engineer's certificate in respect of correctness of the ratio of input and output where a copy of the Standard Input Output Norms notified by Director General of Foreign Trade, Ministry of Commerce, if fixed, is made available to the Chartered Engineer before obtaining the certificate, in respect of goods manufactured or processed.	The procedure has been made more complicated.  Now Certificate from Chartered Engineer certifying correctness of Input Output Ratio is also required to be enclosed along with declaration for Input Rebate claim.
21/2004-CE (NT) dated 6th Sept 2004	1st Mar 2016	21/2016 - CE (N.T) dated 1st Mar 2016	Para 2: Verification of Input-output ratio.-The Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise shall verify the correctness of the ratio of input and output mentioned in the declaration filed before commencement of export of such goods, if necessary, by calling for samples of finished goods or by inspecting such goods in the factory of manufacture or process. If, after such verification, the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise is also satisfied that there is no likelihood of evasion of duty, he may grant permission to the applicant for manufacture or processing and export of finished goods.	(2) Approval of declaration.- The Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise may grant permission to the applicant for manufacture or processing and export of finished goods before commencement of export of such goods on the basis of certificate issued by the Chartered Engineer and the declaration filed under paragraph(1A);  Explanation: In case of doubt in respect of the correctness of such declaration, the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, may visit the factory and verify correctness of such declaration filed.	Now instead of intimation in the form of declaration, approval to declaration by Deputy Commissioner of Central Excise is required to obtain.  Now provision for physical verification and visit to premises prior to approval has also been made.

Existing Notification	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Analysis
21/2004-CE (N.T) dated 6th Sept 2004	1st Mar 2016	21/2016 - CE (N.T) dated 1st Mar 2016	–	<p>Para 3 following 2nd proviso inserted: Provided further that no CENVAT credit shall be availed by the manufacturer or the processor.</p> <p>(d) in paragraph (6), for the words " shall be lodged " the following words, figures and letter shall be substituted, namely;</p> <p>" shall be lodged, before the expiry of the period specified under section 11B of the Central Excise Act, 1944(1 of 1944),"</p>	<p>Now provision w.r.t. non-availment of Cenvat credit is specifically included in the procedure. It was earlier was part of declaration.</p> <p>Limitation period as per section 11b of the Central Excise Act, 1944(1 of 1944) is specifically included.</p>

**Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable and Other Goods) Rules 2001**

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Bizsol Analysis
Rule 2	1st April 2016	20/2016 - CE (N.T) dated 1st Mar 2016	–	<p>Proviso to Rule 2 of Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable and Other Goods) Rules, 2016</p> <p>Provided that an un-registered manufacturer including manufacturers of exempted goods or non-excisable goods shall be eligible to avail the benefits of the provisions of these rules after taking registration under rule 9 of the Central Excise Rules, 2002.</p>	The benefit of said Rules will also be applicable to an un-registered manufacturer including manufacturers of exempted goods or non-excisable goods, provided registration to be obtained by such manufacturer.
Rule 3	1st April 2016	20/2016 - CE (N.T) dated 1st Mar 2016	–	<p>3. Definitions.- In these rules, unless the context otherwise required, -</p> <p>(a) Act means Central Excise Act, 1944 ( 1 of 1944);</p> <p>(b) applicant manufacturer? means a manufacturer who intends to receive goods for specified use at concessional rate of duty;</p> <p>(c) Form means Form appended to these rules;</p> <p>(d) information means the information provided in Form I by the applicant manufacturer;</p> <p>(e) subject goods means the excisable goods which applicant manufacturer intends to procure at concessional rate of duty;</p> <p>(f) supplier manufacturer means a manufacturer who supplies excisable goods at concessional rate of duty to applicant manufacturer;</p> <p>(g) words and expressions used in these rules and not defined but defined in the Act and the rules made there under shall have the same meanings respectively assigned to them.</p>	Definitions included in the said Rules, 2001

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Bizsol Analysis
			<p>3. Application by the manufacturer to obtain the benefit.- (1) A manufacturer who intends to receive subject goods for specified use at concessional rate of duty, shall make an application in quadruplicate in the Form at Annexure I to the jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be (hereinafter referred to as the said Assistant Commissioner or Deputy Commissioner).</p> <p>(2)The manufacturer shall make separate application in respect of each supplier of subject goods.</p> <p>(3) The manufacturer shall execute a general bond with surety or security,</p>	<p>4. Information by applicant manufacturer to obtain benefit. - (1) An applicant manufacturer shall provide an information in duplicate in the Form I to the jurisdictional Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be (hereinafter referred to as the Assistant Commissioner or Deputy Commissioner) and the Assistant Commissioner or Deputy Commissioner shall forward one copy of the information to the jurisdictional range Superintendent of the supplier manufacturer.</p> <p>(2) The applicant manufacturer shall number the information filed under sub-rule (1) in each financial year.</p> <p>(3) The applicant manufacturer may either provide separate information in respect of each of the supplier manufacturer of subject goods or provide combined information for multiple supplier manufacturers with details of each of them in Form I.</p> <p>(4) The applicant manufacturer shall provide the information from time to time to receive subject goods in quantities commensurate with expected consumption in the manufacturing process for a period of one year or less.</p> <p>(5) The applicant manufacturer shall execute a general bond with surety or security:</p>	<p>Procedure for application has been simplified.</p> <ol style="list-style-type: none"> <li>1. Form I in in duplicate to be submitted to AC/DC of Central Excise and Central Excise will forward one copy of Form I to jurisdictional range Superintendent of the supplier manufacturer</li> <li>2. Intimation for each supplier or combined information for multiple supplier manufacturers to be submitted</li> <li>3. Manufacturer will provide information time to time w.r.t. receipt of goods with expected consumption in the manufacturing process.</li> <li>4. General bond to be executed.</li> <li>5. A copy of copy of information duly signed by his authorised signatory to be forwarded to supplier.</li> </ol>
			<p>Provided that it shall be sufficient to provide a letter of undertaking by a manufacturer against whom no show cause notice has been issued under sub-sections (4) or (5) of section 11A of Central Excise Act, 1944 or where no action is proposed under any notification issued in pursuance of rule 12CCC of Central Excise Rules, 2002 or rule 12AAA of CENVAT Credit Rules, 2004.</p> <p>(4) The bond shall be for such amount as considered appropriate by the said Assistant Commissioner or Deputy Commissioner, to cover the recovery of duty liability estimated to be involved at any given point of time.</p> <p>(5) The application shall be countersigned by the said Assistant Commissioner or Deputy Commissioner who shall certify therein that the said person has executed a bond to his satisfaction in respect of end use of the subject goods and indicate the particulars of such bond.</p> <p>(6) Of the four copies of the application referred to in sub-rule (5), one copy shall be forwarded to the jurisdictional range</p>	<p>(6) The applicant manufacturer shall forward a copy of information duly signed by his authorised signatory, to the supplier manufacturer for procuring subject goods.</p>	

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Bizsol Analysis
			Superintendent of the manufacturer of the subject goods, two copies shall be handed over to the manufacturer and one copy shall be retained, by the said Assistant Commissioner or Deputy Commissioner. (7) One copy of the application referred to in sub-rule (6) received by the manufacturer, shall be forwarded by the said manufacturer to the manufacturer of subject goods.		
Rule 5	1st April 2016	20/2016 - CE (N.T) dated 1st Mar 2016	Rule 4. Procedure to be followed by the manufacturer of subject goods. - (1) On the basis of the application referred to in sub-rule (7) of rule 3, the manufacturer of subject goods shall avail the benefit of the exemption notification.	5. Procedure to be followed by supplier manufacturer of subject goods. - (1) The supplier manufacturer shall avail the benefit of this notification on the basis of information received by him under sub-rule (6) or rule 5.	Similar procedure is specified for the supplier manufacturer of subject goods.
			(2) The manufacturer of the subject goods shall record on the application the removal details, such as No. and date of invoice, description, quantity and value of subject goods and amount of excise duty paid at concessional rate.	(2) The supplier manufacturer shall maintain record of information received under sub-rule (1) on the basis of which goods have been removed, the removal details, such as number and date of invoice, description, quantity and value of subject goods and amount of excise duty paid at concessional rate and retain the same in his records.	
Rule 6	1st April 2016	20/2016 - CE (N.T) dated 1st Mar 2016	5. Manufacturer to give information regarding receipt of the subject goods and maintain records.- The manufacturer, receiving subject goods, shall maintain a simple account indicating the quantity and value of subject goods, the quantity of subject goods consumed for the intended purpose, and the quantity remaining in stock, invoice wise and shall submit a quarterly return in Return at Annexure II to the said Assistant Commissioner or Deputy Commissioner by the tenth day of the following month.	6. Applicant manufacturer to submit quarterly returns. - The applicant manufacturer shall, receiving the subject goods, maintain an account indicating the quantity and value of subject goods, the quantity of subject goods consumed for the intended purpose, and the quantity remaining in stock, invoice wise and shall submit a quarterly return on the basis of such records in Form II to the Assistant Commissioner or Deputy Commissioner by the tenth day of the month following each quarter of the financial year.	Quarterly return in Form II to be submitted- same provision.
Rule 7	1st April 2016	20/2016 - CE (N.T) dated 1st Mar 2016	6. Recovery of duty in certain cases.- The said Assistant Commissioner or Deputy Commissioner shall ensure that the goods received are used by the manufacturer for the intended purpose and where the subject goods are not used by the manufacturer for the intended purpose, the manufacturer shall be liable to pay the amount equal to the difference between the duty leviable on such goods but for the exemption and that already paid, if any, at the time of removal from the factory of the manufacturer of the subject goods, along with interest and the provisions of section 11A and section 11AA of the Central Excise Act, 1944 (1 of 1944) shall apply mutatis mutandis for effecting such recoveries.	7. Recovery of duty in certain cases. - Where the goods cleared by the supplier manufacturer on the basis of information provided by an applicant manufacturer, are not used for the intended purpose, the applicant manufacturer shall be liable to pay the amount equal to the difference between the duty leviable on such goods but for the exemption and that already paid, if any, at the time of removal from the factory of the supplier manufacturer of the subject goods, along with interest and the provisions of section 11A, except the time limit mentioned in the said section for demanding duty and section 11AA of the Act shall apply mutatis mutandis, for effecting such recoveries:	Recovery of duty from supplier manufacturer is prescribed even in case of non-existence of supplier manufacturer

Rule No.	Amendment Effective Date	Notification No.	Existing Provision	Amendment in Existing / New Provision	Bizsol Analysis
				<p>Provided that where the applicant manufacturer is found to be non-existent, the supplier manufacturer shall be liable to pay the amount equal to the difference between the duty leviable on such goods but for the exemption and that already paid, if any, at the time of removal from the factory of the supplier manufacturer of the subject goods, along with interest and the provisions of section 11A except the time limit mentioned in the said section and section 11AA of the Act shall apply mutatis mutandis, for effecting such recoveries.</p>	
Rule 7	1st April 2016	20/2016 - CE (N.T) dated 1st Mar 2016	<p>Provided that if the subject goods on receipt are found to be defective or damaged or unsuitable or surplus to the needs of the manufacturer, he may return the subject goods to the original manufacturer of the goods from whom he had obtained these and every such returned goods shall be added to the non-duty paid stock of the manufacturer of the subject goods and dealt with accordingly.</p> <p>Explanation. -For the removal of doubts, it is hereby clarified that subject goods shall be deemed not to have been used for the intended purpose even if any of the quantity of the subject goods is lost or destroyed by natural causes or by unavoidable accidents during transport from the place of procurement to the manufacturer's premises or from the manufacturer's premises to the place of procurement [OLD - during transport from the place of procurement to the manufacturers premises ] or during handling or storage in the manufacturers premises.</p>	<p>Provided further that if the subject goods on receipt are found to be defective or damaged or unsuitable or surplus to the needs of the applicant manufacturer, he may return the subject goods to the supplier manufacturer and every such returned goods shall be added to the non-duty paid stock of the supplier manufacturer.</p> <p>Explanation. - For the removal of doubts, it is hereby clarified that subject goods shall be deemed not to have been used for the intended purpose even if any of the quantity of the subject goods is lost or destroyed by natural causes or by unavoidable accidents during transport from the place of procurement to the applicant manufacturer's premises or from the supplier manufacturer's premises to the place of procurement or during handling or storage in the applicant manufacturer's premises.</p>	

**CUSTOMS - NON TARIFF**

**NEW NOTIFICATION ISSUED UNDER CUSTOMS**

BAGGAGE RULES ( Notification 30/2016-Cus-N.T. dated 29.02.2016 and 31/2016 -Cus N.T. dated 01.03.2016)

- New baggage Rules 2016 replaced old Rules
- Passengers arriving from countries other than Nepal Bhutan or Myanmar will be allowed clearances without payment of duty for used personal effects excluding Jewellery, travel souvenirs other than followings upto Rs.50,000/- per persons and Rs.15,000/- per infants for used personal effects.
  - \* Fire arms.
  - \* Cartridges of fire arms exceeding 50.
  - \* Cigarettes exceeding 100 sticks or cigars exceeding 25 or tobacco exceeding 125 gms.
  - \* Alcoholic liquor or wines in excess of two litres.
  - \* Gold or silver in any form other than ornaments.
  - \* Flat Panel (Liquid Crystal Display/Light-Emitting Diode/ Plasma) television.
- Passengers arriving from Nepal, Bhutan and Myanmar will be allowed clearances without payment of duty for used personal effects excluding Jewellery, travel souvenirs other than followings upto Rs. 15,000/- per persons and used personal effects for infants.
  - \* Fire arms.
  - \* Cartridges of fire arms exceeding 50.
  - \* Cigarettes exceeding 100 sticks or cigars exceeding 25 or tobacco exceeding 125 gms.
  - \* Alcoholic liquor or wines in excess of two litres.
  - \* Gold or silver in any form other than ornaments.
  - \* Flat Panel (Liquid Crystal Display/Light-Emitting Diode/ Plasma) television.
- Passenger residing abroad more than 1 year will be allowed to duty free clearances upto 20 gm with value cap of Rs. 50,000/- for male passenger and 40gm for with value cap of Rs. 1 lakh for lady passenger.
- Person residing abroad and transferring the residence permanently are allowed to carry articles duty free as allowed in the schedule.
- Declaration is required to be filed by the passenger who come to India and have anything to declare or carrying dutiable or prohibited goods
- Customs duty free allowance is as follows:

Eligible passenger	Origin country	Duty free allowance
Passengers of Indian origin and foreigners residing in India, excluding infants Tourists of foreign origin, excluding infants	Other than Nepal, Bhutan, Myanmar	Rs. 50, 000/- Rs. 15,000/-
Passengers of Indian origin and foreigners residing in India, excluding infants Tourists of foreign origin, excluding infants	Nepal, Bhutan, Myanmar	By air Rs. 15,000/- By land - Nil
Indian passenger who has been residing abroad for over one year	Anywhere	Gold jewellery: Gentleman - 20 gms with a value cap of Rs. 50,000/- Lady - 40 gms with a value cap of Rs. 1,00,000/-
All passengers	Anywhere	Alcohol liquor or wine: 2 litres
All passengers	Anywhere	Cigarettes: 200 numbers or Cigars upto 50 or Tobacco 250 grams
Passenger of 18 years and above	Anywhere	One laptop computer (note book computer)".

**Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 (IGCRD) Notification No. 32/2016 - Customs (N. T.) dated 1st March, 2016**

- Earlier Rules are totally replaced. New Rules will be effective from 01st April 2016
- This Rule will be applicable when importer being manufacturer intends to avail exemption on goods as notified under section 25(1) of the Customs Act, 1962 for the manufacture of excisable commodity
- Only information is required to be furnished to Deputy Commissioner of central Excise giving details of name and address of the manufacturer, excisable goods which are produced in the factory and having registration under Rule 9 of the Central Excise Rule 2002 with the description and nature of the imported goods to be used in the said manufactured product and port of importation.
- Manufacturer needs to furnish yearly estimated quantity and value of to be imported goods alongwith exemption notification number
- Manufacturer needs to furnish the continuity bond with surety or security with AC/DC of central Excise. Deputy Commissioner of central Excise will forward the copy of information so received to Deputy Commissioner of Customs
- Manufacturer have to file the information on receipt of goods in the factory within two days
- Manufacturer maintain the records w.r.t. quantity and value of goods imported, goods consumed, goods re-exported and stock and produce the same whenever require by AC/DC of central excise and also submits quarterly return on or before 10th day of following quarter
- Re-export or clearance of unutilized or defective goods will be allowed to be re-exported within 3 months from the date of export subject of value should not be lowered than of import. It is required to be cleared for home consumption or violation of the provisions of the Rules, differential duty alongwith interest will be paid.

**Notification No. 33/2016 - Customs (N. T.) dated 1st March, 2016 (Effective from 01st April 2016)**

- Rate of interest is notified as 15% p.a.

**INDIRECT TAX DISPUTE RESOLUTION SCHEME, 2016**

- It will be applicable for all the disputes pending before Commissioner (Appeals) as on 01.03.2016 and will be valid upto 31.12.2016.
- Applicable for dispute related to Central Excise, Customs and Service Tax matters.
- Assistant Commissioner / Deputy Commissioner will be designated authority under the scheme as notified.
- Declaration needs to be filed by the declarant (Appellant) opting for such scheme in the prescribed format.
- Declarant (Appellant) will have to discharge duty liability along with interest and 25% penalty within 15 days after declaration is filed and acknowledged.
- Submit the proof of payment within 7 days from the date of payment.
- Designated authority will pass an order of discharging the dues
- Provision of this scheme is not applicable if,
  - (a) the impugned order is in respect of search and seizure proceeding; or
  - (b) prosecution for any offence punishable under the Act has been instituted before the 1st day of June, 2016; or
  - (c) the impugned order is in respect of narcotic drugs or other prohibited goods; or
  - (d) impugned order is 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; or
  - (e) any detention order has been passed under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974.
- After getting the discharge order, Appeals before Commissioner (Appeals) will be stand disposed and immunity from other proceedings will be granted.
- No re-opening of discharge order is permitted.
- No refund also will be granted after the payment by the declarant.
- Such declaration & discharge order will not be considered merit and will not have any binding effect.
- Central Govt will make necessary rules in this regard.

**INFRASTRUCTURE CESS (Notification No. 1/2016 dated 01.03.2016)**

Clause 159 of the Finance Bill 2016 introduces Infrastructure Cess and made effective from 01.03.2016 under provisional collection of taxes Act, 1961.

Sl. No.	Heading	Description of excisable goods	Rate Duty of Excise as infrastructure Cess	Condition No.
1	8703	Motor vehicles cleared as ambulances duly fitted with all the fitments, furniture and accessories necessary for an ambulance from the factory manufacturing such motor vehicles	Nil	–
2	8703	Motor vehicles (other than three wheeled motor vehicles for transport of upto seven persons), which after clearance has been registered for use solely as ambulance	Nil	1
3	8703	Motor vehicles (other than three wheeled motor vehicles), which after clearance has been registered for use solely as taxi	Nil	1
4	8703	Electrically operated vehicles, including three wheeled electric motor vehicles <b>Explanation</b> - For the purpose of this entry, "electrically operated vehicles" mean vehicles which are run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicles and shall include electric motor-assisted cycle rickshaws driven by rechargeable solar batteries, also known as "soleckshaw"	Nil	–
5	8703	Hybrid motor vehicles Explanation.- For the purpose of this entry, "hybrid motor vehicle" means a motor vehicle, which uses a combination of battery powered electric motor and an internal combustion engine to power the vehicle to drive trains, but does not include such micro-hybrid motor vehicle with start and stop technology, using battery powered electric motor only while in static condition	Nil	–
6	8703	Three wheeled vehicles	Nil	–
7	8703	Cars for physically handicapped persons	Nil	2
8	8703	Hydrogen vehicles based on fuel cell technology <b>Explanation.</b> - For the purpose of this entry, "Hydrogen vehicle" means a motor vehicle that converts the chemical energy of hydrogen to mechanical energy by reacting hydrogen with oxygen in a fuel cell to run electric motor to power the vehicle drive trains	Nil	–
9	8703	Motor vehicles of length not exceeding 4000 mm, namely petrol, liquefied petroleum gases (LPG) or compressed natural gas (CNG) driven vehicles of engine capacity not exceeding 1200 cc Explanation.- For the purpose of this entry, the specification of the motor vehicle shall be determined as per the Motor Vehicles Act, 1988 (59 of 1988) and the rules made there under	1%	–
10	8703	Motor vehicles of length not exceeding 4000 mm, namely diesel driven vehicles of engine capacity not exceeding 1500 cc Explanation.- For the purpose of this entry, the specification of the motor vehicle shall be determined as per the Motor Vehicles Act, 1988 (59 of 1988) and the rules made there under	2.5%	–
11	8703	Other than above	4%	–

**Clean Energy Cess**

Notification No.1/2016 and 2/2016 dated 01.03.2016 (Effective from 01st March 2016)

- Notification No.1/2015 dt. 01st March 2015 rescinded which was exempting the cess as is in excess of the amount calculated at the rate of Rs. 200 per tonne
- Clean energy cess is exempted for the goods produced or extracted as per traditional and customary rights enjoyed by local Tribals in the State of Meghalaya and State of Nagaland

**CUSTOMS ACT 1962**

Sec.No./ R.No.	Amendment Effective Date	Provision	Existing Provision	Amendment in Existing / New Provision	Bizsol Analysis
2 (43)	From the date of Ascent of President of India	Definition of "Warehouse"	"warehouse" means a public warehouse appointed under section 57 or a private warehouse licensed under section 58;	"warehouse" means a public warehouse licensed under section 57 or a private warehouse licensed under section 58 OR Special Warehouse license u/s 58A	Additional category of Special Warehouse has been introduced which will be under physical control for class of goods.
2(45)		Definition of "Warehousing Station"	"warehousing station" means a place declared as a warehousing station under section 9.	Omitted	This provision was absolutely redundant rather causing problems of ease of doing business and hence declaration of warehousing station/s 9 has been deleted and hence definition not necessary
Chapter III			Chapter -III Appointment of Customs Ports, Airports, Warehousing Stations etc.	APPOINTMENT OF CUSTOMS PORTS, AIRPORTS, ETC	Appropriate renaming has been done, since provision of warehousing station has been deleted
9		Section 9. Power to declare places to be warehousing stations.	- The Board may, by notification in the Official Gazette, declare places to be warehousing stations at which alone public warehouses may be appointed and private warehouses may be licensed.	Omitted	Welcome measure This provision was absolutely cumbersome rather causing problems of ease of doing business and hence declaration of warehousing station/s 9 has been deleted and hence definition not necessary
25(4) & (5)		Power to grant exemption from duty	(4) Every notification issued under sub-section (1) or sub-section (2A) shall, - (a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette; (b) also be published and offered for sale on the date of its issue by the Directorate of Publicity and Public Relations of the Board, New Delhi. (5) Notwithstanding anything contained in sub-section (4), where a notification comes into force on a date later than the date of its issue, the same shall be published and offered for sale by the said Directorate of Publicity and Public Relations on a date on or before the date on which the said notification comes into force.	(4) Every notification issued under sub-section (1) or sub-section (2A) shall, - (a) unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette;	Now there is no requirement of publishing and offering for sale any notification issued, by the Directorate of Publicity and Public Relations of CBEC.
28		Heading	Recovery of duties not levied or short-levied or erroneously refunded.	Recovery of duties not levied or not paid or short-levied or short-paid	Duties not paid or short paid has been inserted for better clarity and to avoid litigation so as to include duties not paid / short paid.
28(1)		Recovery of duties not levied or short-levied or erroneously refunded.	(1) Where any duty has not been levied or has been short-levied or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts,	(1) Where any duty has not been levied or not paid or has been short-levied or short- paid or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts,	Duties not paid or short paid has been inserted for better clarity and to avoid litigation so as to include duties not paid / short paid. Period of limitation has been increased from one year to two years for issuing SCN & Demand Notices,

Sec.No./ R.No.	Amendment Effective Date	Provision	Existing Provision	Amendment in Existing / New Provision	Bizsol Analysis
28(1)(a)		Recovery of duties not levied or short-levied or erroneously refunded.	(a) the proper officer shall, within one year from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;	(a) the proper officer shall, within Two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;	in case not involving fraud, suppression of facts, willful mis-statement, etc However, period of limitation has not been extended in the matter of refund.
28(3)		Recovery of duties not levied or short-levied or erroneously refunded.	(3) Where the proper officer is of the opinion that the amount paid under clause (b) of sub-section (1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (a) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of one year shall be computed from the date of receipt of information under sub-section (2).	(3) Where the proper officer is of the opinion that the amount paid under clause (b) of sub-section (1) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (a) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of Two years shall be computed from the date of receipt of information under sub-section (2).	
28(4)		Recovery of duties not levied or short-levied or erroneously refunded.	(4) Where any duty has not been levied or has been short-levied Or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,- (a) collusion; or (b) any wilful mis-statement; or (c) suppression of facts, by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice	(4) Where any duty has not been levied or not paid or has been short-levied or short-paid or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,- (a) collusion; or (b) any wilful mis-statement; or (c) suppression of facts, by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or not paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice	
28(5)		Recovery of duties not levied or short-levied or erroneously refunded.	(5) Where any duty has not been levied or has been short-levied or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub- section (4) by the proper officer, such person may pay the duty in full or in part, as may be accepted by	(5) Where any duty has not been levied or not paid or has been short-levied or short-paid or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub- section (4) by the proper officer, such person may pay the duty in full or in part, as may be	

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			him, and the interest payable thereon under section 28AA and the penalty equal to twenty-five per cent. of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.	accepted by him, and the interest payable thereon under section 28AA and the penalty equal to twenty-five per cent. of the duty specified in the notice or the duty so accepted by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.	
28(6)(ii)		Recovery of duties not levied or short-levied or erroneously refunded.	(ii) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then the proper officer shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of one year shall be computed from the date of receipt of information under sub-section (5).	(ii) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then the proper officer shall proceed to issue the notice as provided for in clause (a) of sub-section (1) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of Two years shall be computed from the date of receipt of information under sub-section (5).	
28(7)		Recovery of duties not levied or short-levied or erroneously refunded.	(7) In computing the period of one year referred to in clause (a) of sub-section (1) or five years referred to in sub-section (4), the period during which there was any stay by an order of a court or tribunal in respect of payment of such duty or interest shall be excluded.	(7) In computing the period of Two years referred to in clause (a) of sub-section (1) or five years referred to in sub-section (4), the period during which there was any stay by an order of a court or tribunal in respect of payment of such duty or interest shall be excluded.	
28 - Explanation 1 (a)		Recovery of duties not levied or short-levied or erroneously refunded.	(a) in a case where duty is not levied, or interest is not charged, the date on which the proper officer makes an order for the clearance of goods;	(a) in a case where duty is not levied or not paid or short-levied or short-paid, or interest is not charged, the date on which the proper officer makes an order for the clearance of goods;	
47(1)		Clearance of goods for home consumption	(1) Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption.	(1) Where the proper officer is satisfied that any goods entered for home consumption are not prohibited goods and the importer has paid the import duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance of the goods for home consumption.  Provided that the Central Government may, by notification in the Official Gazette, permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules.";	It is the welcome step the honest importer having un-blemished track record can make deferred payment. However, class of importer and the deferment period / installment may be notified by separate rules.
47(2)		Clearance of goods for home consumption	(2) Where the importer fails to pay the import duty under sub-section (1) within five days excluding holidays from the date on which the bill of entry is returned to him for payment of duty, he shall pay interest at such rate, not	(2) Where the importer fails to pay the import duty, either in full or in part, within two days (excluding holidays)--  (a) from the date on which the bill of	The provisions has been amended in line with amendment made for deferred payment for certain class of importers.

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			below ten percent and not exceeding thirty six percent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, on such duty till the date of payment of the said duty :	entry is returned to him for payment of duty; or (b) in the case of deferred payment under the proviso to sub-section (1), from such due date as may be specified by rules made in this behalf, he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not below ten per cent. and not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette.	
51(1)		Clearance of goods for exportation.	Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation.	Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same, the proper officer may make an order permitting clearance and loading of the goods for exportation.  Provided that the Central Government may, by notification in the Official Gazette, permit certain class of exporters to make deferred payment of said duty or any charges in such manners as may be provided by rules	It is the welcome step the honest Exporter for payment of export duty, having un-blemished track record can make deferred payment. However, class of importer and the deferment period / installment may be notified by separate rules.
51(2)		Clearance of goods for exportation.		"(2) Where the exporter fails to pay the export duty, either in full or in part, under the proviso to sub-section (1) by such due date as may be specified by rules, he shall pay interest on said duty not paid or short-paid till the date of its payment at such rate, not below five per cent. and not exceeding thirty-six per cent. per annum, as may be fixed by the Central Government, by notification in the Official Gazette."	The provisions has been amended in line with amendment made for deferred payment for certain class of Exporter for payment of export duty.
53		Transit of certain goods without payment of duty	Subject to the provisions of section 11, any goods imported in a conveyance and mentioned in the import manifest or the import report, as the case may be, as for transit in the same conveyance to any place outside India or any customs station may be allowed to be so transited without payment of duty.	Subject to the provisions of section 11, where any goods imported in a conveyance and mentioned in the import manifest or the import report, as the case may be, as for transit in the same conveyance to any place outside India or to any customs station, the proper officer may allow the goods and the conveyance to transit without payment of duty, subject to such conditions, as may be prescribed.	The proposed new section 53 seeks to empower the Board to make regulations to provide for conditions subject to which the proper officer may allow the goods & the conveyance to transit without payment of duty. Proper Officer has been inserted, perhaps this may be for ease of doing business and it may be given to the stage of appraiser.
57		Appointing of public warehouses.	At any warehousing station, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may appoint public warehouses wherein dutiable goods may be deposited.	The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a public warehouse wherein dutiable goods may be deposited.	It is upward delegation, rational of the same is unimaginable especially on the point of view of Ease of doing business, perhaps, it may be for reducing the corruption but it may add since file will be processed by the lower officer

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58		Licensing of private warehouses.	<p>(1) At any warehousing station, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may license private warehouses wherein dutiable goods imported by or on behalf of the licensee, or any other imported goods in respect of which facilities for deposit in a public warehouse are not available, may be deposited.</p> <p>(2) The Assistant Commissioner of Customs or Deputy Commissioner of Customs may cancel a licence granted under sub-section (1) -</p> <p>(a) by giving one month's notice in writing to the licensee; or</p> <p>(b) if the licensee has contravened any provision of this Act or the rules or regulations or committed breach of any of the conditions of the licence:</p> <p>Provided that before any licence is cancelled under clause (b), the licensee shall be given a reasonable opportunity of being heard.</p> <p>(3) Pending an enquiry whether a licence granted under sub-section (1) should be cancelled under clause (b) of sub-section (2), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may suspend the licence.</p>	<p>58. The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a private warehouse wherein dutiable goods imported by or on behalf of the licensee may be deposited.</p> <p>58A. (1) The Principal Commissioner of Customs or Commissioner of Customs may, subject to such conditions as may be prescribed, license a special warehouse wherein dutiable goods may be deposited and such warehouse shall be caused to be locked by the proper officer and no person shall enter the warehouse or remove any goods therefrom without the permission of the proper officer.</p> <p>(2) The Board may, by notification in the Official Gazette, specify the class of goods which shall be deposited in the special warehouse licensed under sub-section (1).</p> <p>58B. (1) Where a licensee contravenes any of the provisions of this Act or the rules or regulations made thereunder or breaches any of the conditions of the licence, the Principal Commissioner of Customs or Commissioner of Customs may cancel the licence granted under section 57 or section 58 or section 58A:</p> <p>Provided that before any licence is cancelled, the licensee shall be given a reasonable opportunity of being heard.</p> <p>(2) The Principal Commissioner of Customs or Commissioner of Customs may, without prejudice to any other action that may be taken against the licensee and the goods under this Act or any other law for the time being in force, suspend operation of the warehouse during the pendency of an enquiry under sub-section (1).</p> <p>(3) Where the operation of a warehouse is suspended under sub-section (2), no goods shall be deposited in such warehouse during the period of suspension:</p> <p>Provided that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse.</p> <p>(4) Where the licence issued under section 57 or section 58 or section 58A is cancelled, the goods warehoused shall, within seven days from the date on which order of such cancellation is served on the licensee or within such extended period as the proper officer may allow,</p>	<p>The provision has been amended so as to differentiate to permit Private Warehouse for certain class of goods with physical control and certain class of goods with record based control. It is expected EOUs will not be covered u/s Sec 58A but it will be covered under only Sec 58 which will have record based control and procedure will be simplified. However, for sensitive goods like plastic, steel, textile, polyester, it may be prescribed the warehouse u/s 58A which will have physical control. But it can be really concluded only after notifying different class of goods.</p> <p>License of the units having contravention will be suspended, and their operations will be affected. After cancellation of license unit will have to be discharged duty liabilities within 7 days or extended.</p> <p>However, warehouse will be setup with the license granted by principal commissioners / commissioner and not Deputy Commissioner / AC. It is been upward delegation.</p>

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				<p>be removed from such warehouse to another warehouse or be cleared for home consumption or export:</p> <p>Provided that the provisions of this Chapter shall continue to apply to the goods already deposited in the warehouse till they are removed to another warehouse or cleared for home consumption or for export, during such period."</p>	
59		Warehousing bond	<p>(1) The importer of any goods specified in sub-section (1) of section 61, which have been entered for warehousing and assessed to duty under section 17 or section 18 shall execute a bond binding himself in a sum equal to twice the amount of the duty assessed on such goods-</p> <p>(a) to observe all the provisions of this Act and the rules and regulations in respect of such goods;</p> <p>(b) to pay on or before a date specified in a notice of demand, -</p> <p>(i) all duties, and interest, if any, payable under sub-section (2) of section 61;</p> <p>(ii) rent and charges claimable on account of such goods under this Act, together with interest on the same from the date so specified at such rate not below eighteen per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette; and</p> <p>(c) to discharge all penalties incurred for violation of the provisions of this Act and the rules and regulations in respect of such goods.</p> <p>(2) For the purposes of sub-section (1), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may permit an importer to enter into a general bond in such amount as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may approve in respect of the warehousing of goods to be imported by him within a specified period.</p> <p>(3) A bond executed under this section by an importer in respect of any goods shall continue in force notwithstanding the transfer of the goods to any other person or the removal of the goods to another warehouse:</p> <p>Provided that where the whole of the goods or any part thereof are transferred to another person, the proper</p>	<p>59. (1) The importer of any goods in respect of which a bill of entry for warehousing has been presented under section 46 and assessed to duty under section 17 or section 18 shall execute a bond in a sum equal to thrice the amount of the duty assessed on such goods, binding himself-</p> <p>(a) to comply with all the provisions of the Act and the rules and regulations made thereunder in respect of such goods;</p> <p>(b) to pay, on or before the date specified in the notice of demand, all duties and interest payable under sub-section (2) of section 61; and</p> <p>(c) to pay all penalties and fines incurred for the contravention of the provisions of this Act or the rules or regulations, in respect of such goods.</p> <p>(2) For the purposes of sub-section (1), the Assistant Commissioner of Customs or Deputy Commissioner of Customs may permit an importer to execute a general bond in such amount as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may approve in respect of the warehousing of goods to be imported by him within a specified period.</p> <p>(3) The importer shall, in addition to the execution of a bond under sub-section (1) or sub-section (2), furnish such security as may be prescribed.</p> <p>(4) Any bond executed under this section by an importer in respect of any goods shall continue to be in force notwithstanding the transfer of the goods to another warehouse.</p> <p>(5) Where the whole of the goods or any part thereof are transferred to another person, the transferee shall execute a bond in the manner specified in sub-section (1) or sub-section (2) and furnish security as specified under sub-section (3).</p>	<p>1. Bond amount has been increased from twice of the duty amount to thrice of the duty amount and security also will have to be given.</p> <p>2. Importation of Goods for which Bill of entry is filed under Sec 46 for warehousing also is covered under the said provisions</p> <p>3. Now, rent charges claimable will not be pre-requisite for non-compliances of any of the provisions, since it is the issue of custodian i.e. owner of the warehouse.</p>

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			officer may accept a fresh bond from the transferee in a sum equal to twice the amount of duty assessed on the goods transferred and thereupon the bond executed by the transferor shall be enforceable only for a sum mentioned therein less the amount for which a fresh bond is accepted from the transferee.		
60		Permis- sion for deposit of goods in a w a r e - house.	When the provisions of section 59 have been complied with in respect of any goods, the proper officer may make an order permitting the deposit of the goods in a warehouse.	(1) When the provisions of section 59 have been complied with in respect of any goods, the proper officer may make an order permitting removal of the goods from a customs station for the purpose of deposit in a warehouse.  (2) Where an order is made under sub-section (1), the goods shall be deposited in a warehouse in such manner as may be prescribed.	The provision has been made for transfer from warehouse to another custom station and rules will be prescribed subsequently.
61		Period for w h i c h g o o d s may remain ware- housed	(1) Any warehoused goods may be left in the warehouse in which they are deposited or in any warehouse to which they may be removed, - (a) in the case of capital goods intended for use in any hundred per cent export oriented undertaking, till the expiry of five years; (aa) in the case of goods other than capital goods intended for use in any hundred per cent. export-oriented undertaking, till the expiry of three years; and (b) in the case of any other goods, till the expiry of one year, After the date on which the proper officer has made an order under section 60 permitting the deposit of the goods in a warehouse : Provided that - (i) in the case of any goods which are not likely to deteriorate, the period specified in clause (a) or clause (aa) or clause (b) may, on sufficient cause being shown, be extended - (A) in the case of such goods intended for use in any hundred per cent. export-oriented undertaking, by the Commissioner of Customs, for such period as he may deem fit; and (B) in any other case, by the Commissioner of Customs, for a period not exceeding six months and by the Chief Commissioner of Customs for such further period as he may deem fit; (ii) in the case of any goods referred to in clause (b), if they are likely to deteriorate, the aforesaid period of one year may be reduced by the Commissioner	(1) Any warehoused goods may remain in the warehouse in which they are deposited or in any warehouse to which they may be removed: (a) in the case of capital goods intended for use in any hundred per cent. export oriented undertaking or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65, till their clearance from the warehouse; (b) in the case of goods other than capital goods intended for use in any hundred per cent. export oriented undertaking or electronic hardware technology park unit or software technology park unit or any warehouse wherein manufacture or other operations have been permitted under section 65, till their consumption or clearance from the warehouse; and (c) in the case of any other goods, till the expiry of one year from the date on which the proper officer has made an order under sub-section (1) of section 60: Provided that in the case of any goods referred to in this clause, the Principal Commissioner of Customs or Commissioner of Customs may, on sufficient cause being shown, extend the period for which the goods may remain in the warehouse, by not more than one year at a time: Provided further that where such goods are likely to deteriorate, the period referred to in the first proviso may be reduced by the Principal Commissioner	1. The provision applicable to the EOU for warehousing period has been made applicable to STP, EHTP also.  2. Warehousing period for EOU and STP and EHTP has been made in accordance with provisions of Foreign Trade Policy  Permissions of extension of warehousing station can be given by Principal Commissioner / Commissioner.  This is a welcome measure for ease of doing business.

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			<p>of Customs to such shorter period as he may deem fit :</p> <p>Provided further that when the licence for any private warehouse is cancelled, the owner of any goods warehoused therein shall, within seven days from the date on which notice of such cancellation is given or within such extended period as the proper officer may allow, remove the goods from such warehouse to another warehouse or clear them for home consumption or exportation.</p> <p>(2) Where any warehoused goods -</p> <p>(i)specified in sub-clause (a) or sub-clause (aa) of sub-section (1), remain in a warehouse beyond the period specified in that sub-section by reason of extension of the aforesaid period or otherwise, interest at such rate as is specified in section 47 shall be payable, on the amount of duty payable at the time of clearance of the goods in accordance with the provisions of section 15 on the warehoused goods, for the period from the expiry of the said warehousing period till the date of payment of duty on the warehoused goods;</p> <p>(ii)specified in sub-clause (b) of sub-section (1), remain in a warehouse beyond a period of ninety days, interest shall be payable at such rate or rates not exceeding the rate specified in section 47, as may be fixed by the Board, on the amount of duty payable at the time of clearance of the goods in accordance with the provisions of section 15 on the warehoused goods, for the period from the expiry of the said ninety days till the date of payment of duty on the warehoused goods:</p> <p>Providedthat the Board may, if it considers it necessary so to do in the public interest, by order and under circumstances of an exceptional nature, to be specified in such order, waive the whole or part of any interest payable under this section in respect of any warehoused goods:</p> <p>Provided further that the Board may, if it is satisfied that it is necessary so to do in the public interest, by notification in the Official Gazette, specify the class of goods in respect of which no interest shall be charged under this section.</p> <p>Explanation. - For the purposes of this section, "hundred per cent export oriented undertaking" has the same meaning as in Explanation 2 to sub-section (1) of section 3 of the Central Excises and Salt Act, 1944 (1 of 1944).</p>	<p>of Customs or Commissioner of Customs to such shorter period as he may deem fit.</p> <p>(2) Where any warehoused goods specified in clause (c) of sub-section (1) remain in a warehouse beyond a period of ninety days from the date on which the proper officer has made an order under sub-section (1) of section 60, interest shall be payable at such rate as may be fixed by the Central Government under section 47, on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said ninety days till the date of payment of duty on the warehousedgoods:</p> <p>Provided that if the Board considers it necessary so to do, in the public interest, it may,--</p> <p>(a) by order, and under the circumstances of an exceptional nature, to be specified in such order, waive the whole or any part of the interest payable under this section in respect of any warehoused goods;</p> <p>(b) by notification in the Official Gazette, specify the class of goods in respect of which nointerest shall be charged under this section;</p> <p>(c) by notification in the Official Gazette, specify the class of goods in respect of which theinterest shall be chargeable from the date on which the proper officer has made an order under sub-section (1) of section 60.</p> <p>Explanation.-- For the purposes of this section,--</p> <p>(i) "electronic hardware technology park unit" means a unit established under the ElectronicHardware Technology Park Scheme notified by the Government of India;</p> <p>(ii) "hundred per cent. export oriented undertaking" has the same meaning as in clause (ii) of</p> <p>Explanation 2 to sub-section (1) of section 3 of the Central Excise Act, 1944; and</p> <p>(iii) "software technology park unit" means a unit established under the Software Technology Park Scheme notified by the Government of India.'</p>	

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62		Control over warehouse goods.	(1) All warehoused goods shall be subject to the control of the proper officer. (2) No person shall enter a warehouse or remove any goods therefrom without the permission of the proper officer. (3) The proper officer may cause any warehouse to be locked with the lock of the Customs Department and no person shall remove or break such lock. (4) The proper officer shall have access to every part of a warehouse and power to examine the goods therein	Omitted	This is a welcome step for ease of doing business. Now there will be a record based control on such warehouses except for warehouses setup under section 58A and hence there is no need of payment of MOT charges by EOU except for class of goods which is notified under section 58A.
63		Payment of rent and warehouse charges.	The owner of any warehoused goods shall pay to the warehouse-keeper rent and warehouse charges at the rates fixed under any law for the time being in force or where no rates are so fixed, at such rates as may be fixed by the Commissioner of Customs. (2) If any rent or warehouse charges are not paid within ten days from the date when they became due, the warehouse-keeper may, after notice to the owner of the warehoused goods and with the permission of the proper officer cause to be sold (any transfer of the warehoused goods notwithstanding) such sufficient portion of the goods as the warehouse-keeper may select.	Omitted	This is a welcome step for ease of doing business. Otherwise also this was the issue of the custodian i.e. owner of warehouse and not the custom officers.
64		Owner's right to deal with warehoused goods.	With the sanction of the proper officer and on payment of the prescribed fees, the owner of any goods may either before or after warehousing the same - (a) inspect the goods; (b) separate damaged or deteriorated goods from the rest; (c) sort the goods or change their containers for the purpose of preservation, sale, export or disposal of the goods; (d) deal with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods; (e) show the goods for sale; or (f) take samples of goods without entry for home consumption, and if the proper officer so permits, without payment of duty on such samples.	The owner of any warehoused goods may, after warehousing the same: (a) inspect the goods; (b) deal with their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods; (c) sort the goods; or (d) show the goods for sale."	Since physical control has been abolished, there is no need of obtaining sanction on payment of MOT charges. Further, owner of the warehouse cannot separate damaged or deteriorated goods from the rest or change their containers for the purpose of preservation, sale, export or disposal of the goods or take samples of goods without entry for home consumption, and if the proper officer so permits, without payment of duty on such samples.
65(1)		Manufacture and other operations in relation to goods in a warehouse.	(1) With the sanction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs and subject to such conditions and on payment of such fees as may be prescribed, the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods.	(1) With the permission of the Principal Commissioner of Customs or Commissioner of Customs and subject to such conditions and on payment of such fees as may be prescribed, the owner of any warehoused goods may carry on any manufacturing process or other operations in the warehouse in relation to such goods.	It is upward delegation. Now EOU, EHTP Units will have to be obtained license u/s 58/65 from Principal Commissioner / Commissioner

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68		Clearance of warehoused goods for home consumption	<p>The importer of any warehoused goods may clear them for home consumption, if -</p> <p>(a) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form;</p> <p>(b) the import duty leviable on such goods and all penalties, rent, interest and other charges payable in respect of such goods have been paid; and</p> <p>(c) an order for clearance of such goods for home consumption has been made by the proper officer.</p> <p>Provided that the owner of any warehoused goods may, at any time before an order for clearance of goods for home consumption has been made in respect of such goods, relinquish his title to the goods upon payment of rent, interest, other charges and penalties that may be payable in respect of the goods and upon such relinquishment, he shall not be liable to pay duty thereon.</p> <p>Provided further that the owner of any such warehoused goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.</p>	<p>Any warehoused goods may be cleared from the warehouse for home consumption, if -</p> <p>(a) a bill of entry for home consumption in respect of such goods has been presented in the prescribed form;</p> <p>(b) the import duty, interest, fine and penalties payable in respect of such goods have been paid; and;</p> <p>(c) an order for clearance of such goods for home consumption has been made by the proper officer.</p> <p>Provided that the owner of any warehoused goods may, at any time before an order for clearance of goods for home consumption has been made in respect of such goods, relinquish his title to the goods upon payment of penalties that may be payable in respect of the goods and upon such relinquishment, he shall not be liable to pay duty thereon.</p> <p>Provided further that the owner of any such warehoused goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.</p>	<p>It is a welcome step, since it is the issue of owner of the warehouse i.e. custodian and not the custom officer</p> <p>Rent and other charges have been removed</p>
69		Clearance of warehoused goods for exportation.	Clearance of warehoused goods for exportation.	Clearance of warehoused goods for export	Grammatical corrections, since exportation connote intend and export connote physical export
69(b)		Clearance of warehoused goods for exportation.	(b) the export duty, penalties, rent, interest and other charges payable in respect of such goods have been paid; and	(b) the export duty, fine and penalties payable in respect of such goods have been paid; and";	<p>It is a welcome step, since it is the issue of owner of the warehouse i.e. custodian and not the custom officer</p> <p>Rent and other charges have been removed</p>
69(c)		Clearance of warehoused goods for exportation.	(c) an order for clearance of such goods for exportation has been made by the proper officer.	(c) an order for clearance of such goods for export has been made by the proper officer.	Grammatical corrections, since exportation connote intend and export connote physical export
71		Goods not to be taken out of warehouse except as provided by this Act.	No warehoused goods shall be taken out of a warehouse except on clearance for home consumption or re-exportation, or for removal to another warehouse, or as otherwise provided by this Act	No warehoused goods shall be taken out of a warehouse except on clearance for home consumption or export, or for removal to another warehouse, or as otherwise provided by this Act	<p>Welcome step for ease of doing business. Re-exportation has limited meaning whereas "export" word have wider meaning.</p> <p>It will avoid litigation, since re-exportation may be considered as same party from which goods are exported</p>

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72		Goods improperly removed from warehouse, etc.	<p>(1) In any of the following cases, that is to say, -</p> <p>(a) where any warehoused goods are removed from a warehouse in contravention of section 71;</p> <p>(b) where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted under section 61 to remain in a warehouse;</p> <p>(c) where any warehoused goods have been taken under section 64 as samples without payment of duty;</p> <p>(d) where any goods in respect of which a bond has been executed under section 59 and which have not been cleared for home consumption or exportation are not duly accounted for to the satisfaction of the proper officer, the proper officer may demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods together with all penalties, rent, interest and other charges payable in respect of such goods</p> <p>(2) If any owner fails to pay any amount demanded under sub-section (1), the proper officer may, without prejudice to any other remedy, cause to be detained and sold, after notice to the owner (any transfer of the goods notwithstanding) such sufficient portion of his goods, if any, in the warehouse, as the said officer may select.</p>	<p>(1) In any of the following cases, that is to say, -</p> <p>(a) where any warehoused goods are removed from a warehouse in contravention of section 71;</p> <p>(b) where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted under section 61 to remain in a warehouse;</p> <p>(d) where any goods in respect of which a bond has been executed under section 59 and which have not been cleared for home consumption or exportation are not duly accounted for to the satisfaction of the proper officer, the proper officer may demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods together with interest, fine and penalties payable in respect of such goods</p> <p>(2) If any owner fails to pay any amount demanded under sub-section (1), the proper officer may, without prejudice to any other remedy, cause to be detained and sold, after notice to the owner (any transfer of the goods notwithstanding) such sufficient portion of his goods, if any, in the warehouse, as the said officer may deem fit</p>	<p>Since, samples cannot be taken in the warehouse as amended in Sec 64, corresponding provision has been deleted.</p> <p>Similarly, fine &amp; penalties has been added for payment before clearance and requisite of payment of rent prior to clearance is dispensed with, since it is the duty of custodian and not the custom officer.</p>
73		Cancellation and return of warehousing bond	When the whole of the goods covered by any bond executed under section 59 have been cleared for home consumption or exported or are otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the proper officer shall cancel the bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed or is entitled to receive it.	When the whole of the goods covered by any bond executed under section 59 have been cleared for home consumption or transferred or are otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the proper officer shall cancel the bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed or is entitled to receive it.	<p>This is the correction and welcome step.</p> <p>When goods are transferred to other customs station or warehouse then bond given to earlier custom warehouse is allowed to be transferred.</p>
73A		Custody and removal of warehoused goods.	Newly inserted	<p>73A. (1) All warehoused goods shall remain in the custody of the person who has been granted a licence under section 57 or section 58 or section 58A until they are cleared for home consumption or are transferred to another warehouse or are exported or removed as otherwise provided under this Act.</p> <p>(2) The responsibilities of the person referred to in sub-section (1) who has custody of the warehoused goods shall be such as may be prescribed.</p>	<p>The provision has been inserted so as to recover the duty either from custodian or importer as may be prescribed to protect the revenue.</p> <p>Liability of duty interest fine will be on importer and or custodian, as the case may be.</p> <p>This will case more responsibility on custodian</p>

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				(3) Where any warehoused goods are removed in contravention of section 71, the licensee shall be liable to pay duty, interest, fine and penalties without prejudice to any other action that may be taken against him under this Act or any other law for the time being in force.	
156		General power to make rules	<p>(1) Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules consistent with this Act generally to carry out the purposes of this Act.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>(a) the manner of determining the transaction value of the imported goods and export goods under sub-section (1) of section 14;</p> <p>(b) the conditions subject to which accessories of, and spare parts and maintenance and repairing implements for, any article shall be chargeable at the same rate of duty as that article;</p> <p>(c) Omitted</p> <p>(d) the detention and confiscation of goods the importation of which is prohibited and the conditions, if any, to be fulfilled before such detention and confiscation and the information, notices and security to be given and the evidence requisite for the purposes of such detention or confiscation and the mode of verification of such evidence;</p> <p>(e) the reimbursement by an informant to any public officer of all expenses and damages incurred in respect of any detention of any goods made on his information and of any proceedings consequent on such detention;</p> <p>(f) the information required in respect of any goods mentioned in a shipping bill or bill of export which are not exported or which are exported and are afterwards re-landed;</p> <p>(g) the publication, subject to such conditions as may be specified therein, of names and other particulars of persons who have been found guilty of contravention of any of the provisions of this Act or the rules.</p> <p>(h) the amount to be paid for compounding and the manner of compounding under sub-</p>	<p>(1) Without prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules consistent with this Act generally to carry out the purposes of this Act.</p> <p>(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-</p> <p>(a) the manner of determining the transaction value of the imported goods and export goods under sub-section (1) of section 14;</p> <p>(b) the conditions subject to which accessories of, and spare parts and maintenance and repairing implements for, any article shall be chargeable at the same rate of duty as that article;</p> <p>(c) the due date and the manner of making deferred payment of duties, taxes, cesses or any other charges under sections 47 and 51.</p> <p>(d) the detention and confiscation of goods the importation of which is prohibited and the conditions, if any, to be fulfilled before such detention and confiscation and the information, notices and security to be given and the evidence requisite for the purposes of such detention or confiscation and the mode of verification of such evidence;</p> <p>(e) the reimbursement by an informant to any public officer of all expenses and damages incurred in respect of any detention of any goods made on his information and of any proceedings consequent on such detention;</p> <p>(f) the information required in respect of any goods mentioned in a shipping bill or bill of export which are not exported or which are exported and are afterwards re-landed;</p> <p>(g) the publication, subject to such conditions as may be specified therein, of names and other particulars of persons who have been found guilty of contravention of any of the provisions of this Act or the rules.</p> <p>(h) the amount to be paid for compounding and the manner of compounding under sub-</p>	<p>This provision was omitted by Sec 80 of the Finance Act 1988 and now further reinstated :</p> <p>(c) the due date and the manner of making deferred payment of duties, taxes, cesses or any other charges under sections 47 and 51.</p> <p>This amendment is necessary , since deferred payment of custom duty will be allowed for the certain class of the importer as explained in Sec 47 above</p>

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		Retro-spective Amendments		Various notifications pertaining to Advance Licence and Duty Free Import Authorization Schemes are being amended retrospectively, to correct the reference to "section 8" in such notifications to "section 8B" so as to clearly provide that exemption from safeguard duty under section 8B of the Customs Tariff Act, 1975 was/is available under these notifications on imports under Advance Licence and Duty Free Import Authorization Schemes.	Now, Safeguard duty also been exempted retrospectively for all advance authorisation and duty free import authorisation. This is the welcome step.

## SERVICE TAX

### NEW NOTIFICATION / CIRCULAR ISSUED UNDER SERVICE TAX

Notification/ Section	Amendment W.E.F.	Existing Provision	Amendment in Existing / New Provision	Bizsol Analysis
65B clause 11 Interpretations	On assent of the President	(11) "approved vocational education course" means,- (i) a course run by an industrial training institute or an industrial training center affiliated to the National Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961; or (ii) a Modular Employable Skill Course, approved by the National Council of Vocational Training, or State Council for Vocational Training] run by a person registered with the Directorate General of Employment and Training, Union Ministry of Labour and Employment;	Omitted	It has been deleted from Negative list and considered in exemption Notification which may be or may not be withdrawn any time without waiting for amendment in Finance Act.
65B clause 44 in Explanation 2 in sub clause(ii) for item (a) Interpretations	On assent of the President	by a lottery distributor or selling agent, in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing lottery of any kind, in any other manner, in accordance with the provisions of the Lotteries (Regulation) Act, 1998;"	by a lottery distributor or selling agent on behalf of the State Government, in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing lottery of any kind, in any other manner, in accordance with the provisions of the Lotteries (Regulation) Act, 1998	Activity carried out by Lottery distributor or selling Agent of state Government is leviable to service tax
66D (i) Negative List of Services	1st June 2015	betting, gambling and lottery (Explanation: For the purpose of this clause, the expression "betting, gambling and lottery" shall not include any activity specified in explanation 2 to clause (44) of section 65B)	Omitted	Under reverse charge and hence Omitted
66D (o) Negative List of Services	1st June 2016	service of transportation of passengers, with or without accompanied belongings, by - (i) a stage carriage; (ii) railways in a class other than - (A) first class; or	Omitted	It has been deleted from Negative list and considered in exemption Notification which may be or may not be withdrawn any time without waiting for amendment in Finance Act. Public Transportation Services are being taxed since it has been omitted

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		(B) an air-conditioned coach; (iii) metro, monorail or tramway; (iv) inland waterways; (v) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and (vi) metered cabs or auto rickshaws;		from Negative List of Services. Accordingly exemptions/abements have been introduced
66D (p) Negative List of Services	1st June 2016	services by way of transportation of goods - (i) by road except the services of - (A) a goods transportation agency; or (B) a courier agency; (ii) by an aircraft or a vessel from a place outside India to the first customs station of clearance in India; or (iii) by inland waterways;	Omitted	It has been deleted from Negative list and considered in exemption Notification which may be or may not be withdrawn any time without waiting for amendment in Finance Act.  Services towards Transportation of Goods even Goods Transport operator is now subject to Service Tax. Accordingly exemptions/abements have been introduced
Section 66 E (j)- Insertion Declared Service	On assent of the President	-	"(j) assignment by the Government of the right to use the radio-frequency spectrum and subsequent Transfers thereof."	Right to use Spectrum Services are subject to Service Tax earlier anomaly on taxability. Decision in the case of Karnataka High Court in the matter of Bharti Airtel Vs. State of Karnataka (2012(25)514 STR) has been accepted
Section 67A- Insertion Date of determination of rate of Tax, value of taxable service and rate of exchange	On assent of the President	-	"(2) The time or the point in time with respect to the rate of service tax shall be such as may be prescribed	Section 67A is proposed to be amended to obtain specific rule making power in respect of point of taxation Rule. Similarly point of taxation rule is also amended accordingly.  Earlier the time of rate of service Tax was when the taxable services has been provided or agreed to be provided whereas, now it will be as prescribed.
Section 73 Recovery of Service Tax	On assent of the President	Where any Service Tax has not been levied or paid or short levied or short paid or erroneously refunded, the Central excise officer may within eighteen months from the relevant date, serve notice...	(i) in sub-sections (1), (1A), (2A) and (3), for the words "eighteen months", wherever they occur, the words "thirty months" shall be substituted;  (ii) in sub-section (4B), in clause (a), for the words "whose limitation is specified as eighteen months in", the words "falling under" shall be substituted.	Period of Limitation for Serving notice u/s 73 has been enhanced from 18 months to 30 months in department's favour.
Section 75- Substitution Interest on delayed payment of Service Tax	On assent of the President	[Provided that in the case of a service provider, whose value of taxable services provided in a financial year does not exceed sixty lakh rupees during any of the financial years covered by the notice or during the last preceding financial year, as the case may be, such rate of interest, shall be reduced by three percent per annum	Substitution "Provided that in the case of a person who collects any amount as service tax but fails to pay the amount so collected to the credit of the Central Government, on or before the date on which such payment is due, the Central Government may, by notification in the Official Gazette, specify such other rate of interest, as it may deem necessary	Any person who collects Service Tax and fails to deposit with the Central Government will pay interest @ 24% instead of 15% as amended in this budget.

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Section 78A Penalty for Offences by Directors, etc of Company	On assent of the President	-	"Explanation.-- For the removal of doubts, it is hereby clarified that where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, and the proceedings with respect to a notice issued under sub-section (1) of section 73 or the proviso to sub-section (1) of section 73 is concluded in accordance with the provisions of clause (i) of the first proviso to section 76 or clause (i) of the second proviso to section 78, as the case may be, the proceedings pending against any person under this section shall also be deemed to have been concluded."	It is welcome step i.e. Directors responsible to discharge service tax liability will not be liable to pay any service tax liability of service tax alongwith interest and 25% of penalty is paid within 30 days.
Section 89 Offences and Penalty	On assent of the President	(i) in the case of an offence specified in clauses (a), (b) or (c) where the amount exceeds fifty lakh rupees, with imprisonment for a term which may extend to three years  (ii) in the case of the offence specified in clause (d), where the amount exceeds fifty lakh rupees, with imprisonment for a term which may extend to seven years: Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for a term of less than six months	for the words "fifty lakh rupees", at both the places where they occur, the words "two hundred lakh rupees" shall be substituted	It is welcome step unnecessarily threat of imprisonment will be avoided. Imprisonment for a term which may exceed to three years for offences such as availment of Cenvat credit without receipt of taxable service, maintaining false books of Accounts, collects Service Tax but fails to pay to the Government has been enhanced to 200 lakhs from 50 lakhs.
Section 90 (2) Cognizance of offences	On assent of the President	Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences, except the offences specified in sub-section (1), shall be non-cognizable and bailable	Omitted	Since amount has been raised from 50 lakhs to 2 crore this provision becomes redundant and hence omitted.
Section 91 Power to arrest	On assent of the President	(1) If the Commissioner of Central Excise has reason to believe that any person has committed an offence specified in clause (i) or clause (ii) of sub-section (1) of section 89, he may, by general or special order, authorise any officer of Central Excise, not below the rank of Superintendent of Central Excise, to arrest such person.  (3) In the case of a non-cognizable and bailable offence, the Assistant Commissioner, or the Deputy Commissioner, as the case may be, shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an office in charge of a police station has, and is subject to, under section 436 of the Code of Criminal Procedure, 1973	(a) in sub-section (1), the words, brackets and letter "clause (i) or" shall be omitted;  (b) Sub-section (3) shall be omitted.	Existing, Cognizable offence is only when the amount exceeds 50 lakhs, whereas Power to Arrest was also for below 50 lakhs. By this amendment anomaly has been removed and now Power to Arrest will be only in case of amount exceeding 200 lakhs in the case of tax collected but not paid.
Section 93A Power to grant rebate	On assent of the President	Where any goods or services are exported, the Central Government may grant rebate of service tax paid on taxable services which are used as input services	for the word "prescribed", the words "prescribed or specified by notification in the Official Gazette" shall be substituted	Amendment has been made so as to enable to allow rebate by way Notification as well Rules.

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		for the manufacturing or processing 4" or removal or export of such goods" or for providing any taxable services and such rebate shall be subject to such extent and manner as may be prescribe		
Section 101- Insertion Special provision for exemption in certain cases relating to construction, erection, commissioning, etc of Canal, Dams or other irrigation works	On assent of the President	–	<p>"101. (1) Notwithstanding anything contained in section 66B, no service tax shall be levied or collected during the period commencing from the 1st day of July, 2012 and ending with the 29th day of January, 2014 (both days inclusive) in respect of taxable services provided to an authority or a board or any other body (i) set up by an Act of Parliament or a State Legislature; or (ii) established by the Government, with ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution, by way of construction, erection, Commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of canal, dam or other irrigation works.</p> <p>(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.</p> <p>(3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2016 receives the assent of the President, been paid before that date, subject to the condition that Ministry of Civil Aviation or, as the case may be, the Ministry of Shipping in the Government of India certifies that the contract had been entered into before the 1st day of March, 2015.</p> <p>(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.</p> <p>(3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2016 receives the assent of the President."</p>	Retrospective exemptions for services relating to construction, erection, commissioning, etc of Canal, Dams or other irrigation works for a specified period of 1st July 2012 to 29th January 2014, along with Refund procedure in case if Service tax paid.
Section 102- Insertion Special provision for exemption in certain cases relating to	On assent of the President	–	<p>102. (1) Notwithstanding anything contained in section 66B, no service tax shall be levied or collected during the period commencing from the 1st day of April, 2015 and ending with the 29th day of February, 2016 (both days inclusive), in</p>	Retrospective amendment for exemption of services relating to construction of Government buildings for a period 1st April 2015 to 29th Feb 2016 and its refund process in case if paid.

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construction of Government Buildings.			<p>respect of taxable services provided to the Government, a local authority or a Governmental authority, by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of-</p> <p>(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry or any other business or profession;</p> <p>(b) a structure meant predominantly for use as--</p> <p>(i) an educational establishment;</p> <p>(ii) a clinical establishment; or</p> <p>(iii) an art or cultural establishment;</p> <p>(c) a residential complex predominantly meant for self-use or for the use of their employees or other persons specified in Explanation 1 to clause (44) of section 65B of the said Act, under a contract entered into before the 1st day of March, 2015 and on which appropriate stamp duty, where applicable, had been paid before that date.</p> <p>(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all the material times.</p> <p>(3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2016 receives the assent of the President.</p>	
Section 103- Insertion Special provision for exemption in certain cases relating to construction of Airport or Port	On assent of the President	-	<p>103. (1) Notwithstanding anything contained in section 66B, no service tax shall be levied or collected during the period commencing from the 1st day of April, 2015 and ending with the 29th day of February, 2016 (both days inclusive), in respect of services provided by way of construction, erection, commissioning or installation of original works pertaining to an airport or port, under a contract which had been entered into before the 1st day of March, 2015 and on which appropriate stamp duty, where applicable, had been paid before that date, subject to the condition that Ministry of Civil Aviation or, as the case may be, the Ministry of Shipping in the Government of India certifies that the contract had been entered into before the 1st day of March, 2015.</p> <p>(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected had sub-section (1) been in force at all material times.</p>	Retrospective amendment for exemption of services relating to construction of Airport or Port for a period 1st April 2015 to 29th Feb 2016 and its refund process in case if paid.

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			(3) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within a period of six months from the date on which the Finance Bill, 2016 receives the assent of the President."	
Section 93A Rebate by way of refund of Service Tax	On assent of the President	1. Amendment in notification No. 41/2012-ST dated the 29th June, 2012 so as to allow 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 the export of the said goods and to increase the refund amount commensurate to the increased service tax, published in the Gazette of India, Extraordinary, vide number G.S.R. 519(E), dated the 29th June, 2012.	(1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 519(E), dated the 29th June, 2012 issued under section 93A of the Finance Act, 1994 granting rebate of service tax paid on the taxable services which are received by an exporter of goods and used for export of goods, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (2) of the Tenth Schedule, on and from and up to the corresponding dates specified in column (3) of the Schedule, and accordingly, any action taken or anything done or purported to have taken or done under the said notification as so amended, shall be deemed to be, and always to have been, for all purposes, as validly and effectively taken or done as if the said notification as amended by this sub-section had been in force at all material times.  (2) Rebate of all such service tax shall be granted which has been denied, but which would not have been so denied had the amendment made by sub-section (1) been in force at all material times.  (3) Notwithstanding anything contained in the Finance Act, 1994, an application for the claim of rebate of service tax under sub-section (2) shall be made within the period of one month from the date of commencement of the Finance Act, 2016.	The said is being given the Retro-spective effect from 1st July 2012. Hence Rebate by way of refund will be allowed on all cases of Export beyond Factory or any other Place of Production or Manufacture.
Krishi Kalyan Cess	1st June 2016	-	Krishi Kalyan Cess @ 0.5% on the value of all taxable services.  This cess shall be in addition to any cess or service tax leviable on such taxable services.	Krishi Kalyan cess introduced for financing and promoting initiatives to improve agriculture.
8/2016 (Abatement)	1/04/2016	NA	Abatement @ 70% will be allowed on transport of goods by Indian rail subject to non-availment of Cenvat credit on input and capital goods	Cenvat Credit on Input Services can be availed
8/2016 (Abatement)	1/04/2016	NA	Abatement @ 60% will be allowed for transport of goods in containers by rail by any person other than Indian Railways subject to non-availment of cenvat credit on input and capital goods	Reduced abatement of 60% is prescribed for transport of goods in containers by rail by persons other than Indian Railways.  Cenvat Credit on Input Services can be availed

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8/2016 (Abatement Notification)	1/04/2016	CENVAT credit on inputs, capital goods and input services, used for providing the taxable services, has not been taken under the provisions of the CENVAT Credit Rules, 2004.	"CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004."	Cenvat Credit on Input Services can be availed. Service providers of transport of passengers with or without accompanied.
8/2016 (Abatement Notification)	1/04/2016	NA	Abatement @ 60% will be allowed for services of goods transport agency in relation to transportation of used household goods subject to non-availment of cenvat credit.	Earlier, transport of household goods was clubbed with GTA. Now a separate entry has been provided. Additional abatement of 10% has been given for transporting of household goods by GTA. Subject to non availment of Cenvat Credit.
8/2016 (Abatement Notification)	1/04/2016	NA	Abatement @ 30% will be allowed for services provided by a foreman of chit fund in relation to chit fund subject to non-availment of cenvat credit.	New entry.
8/2016 (Abatement Notification)	1/04/2016	NA	Abatement @ 40% will be allowed for transport of passengers, with or without accompanied belonging by a stage carrier will be allowed subject to non-availment of cenvat credit.	Stage carriers (AC) will be entitled for abatement scheme to the extent of 40%.
8/2016 (Abatement Notification)	1/04/2016	CENVAT credit on inputs, capital goods and input services, used for providing the taxable services, has not been taken under the provisions of the CENVAT Credit Rules, 2004.	"CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004."	Service providers of transport of goods in vessels will be entitled for credit of input services even after claiming abatement scheme as notified in the notification.
8/2016 (Abatement Notification)	1/04/2016	A package tour was entitled for 75% abatement subject to non-availment of cenvat	Service provided by tour operator other than services solely of arranging or booking accommodation for any person will be entitled for 70% abatement	The abatement for package tour has been reduced from 75% to 70%. Also, for other services, the abatement is increased from 60% to 70%.
8/2016 (Abatement Notification)	1/04/2016	Two rates of abatement have been prescribed for services of construction of complex, building, civil structure, or a part thereof,- ¢ 75% of the amount charged in case of a residential unit having carpet area of less than 2000 square feet and costing less than Rs 1 crore, and ¢ 70% of the amount charged in case of other than (a) above	Construction of a complex, building, civil structure or a part thereof, intended for a sale to a buyer, wholly or partly except where entire consideration is received after issuance of completion certificate by the competent authority will be entitled for 70% of abatement subject to non-availment of cenvat credit and addition of value of land in the amount charged from the service receiver.	A uniform abatement at the rate of 70% is now being prescribed for services of construction of complex, building, civil structure, or a part thereof, subject to fulfilment of the existing conditions.
8/2016 (Abatement Notification)	1/04/2016	NA	Rent-cab Service For the purposes of exemption at Serial number 9, the amount charged shall be the sum total of the amount charged for the service including the fair market value of all goods (including fuel) and services supplied by the recipient(s) in or in relation to the service, whether or not supplied under the same contract or any other contract: Provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles."	Explanation has been added for value of renting of motor cab services. The explanation provides that fair market value of all goods (including that of fuel) supplied by service recipient to be added in the gross value.

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9/2016 (Mega Exemption Notification - 25/2012)	1/04/2016	"(b) an individual as an advocate or a partnership firm of advocates by way of legal services to- (i) an advocate or partnership firm of advocates providing legal services; (ii) any person other than a business entity; or (iii) a business entity with a turnover up to rupees ten lakhs in the preceding financial year; or (c) a person represented on an arbitral tribunal to an arbitral tribunal.	"(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to- (i) an advocate or partnership firm of advocates providing legal services; (ii) any person other than a business entity; or (iii) a business entity with a turnover up to rupees ten lakh in the preceding financial year; or (c) a senior advocate by way of legal services to a person other than a person ordinarily carrying out any activity relating to industry, commerce or any other business or profession;"	Exemption in respect of the following services is being withdrawn,- - Services provided by a senior advocate to an advocate or partnership firm of advocates, and - A person represented on an arbitral tribunal to an arbitral tribunal
9/2016 (Mega Exemption Notification - 25/2012)	1/03/2016	9B. Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme, -	(a) two year full time residential Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT), conducted by Indian Institute of Management; (b) fellow programme in Management; (c) five year integrated programme in Management.";	Services provided by the Indian Institutes of Management (IIM) by way of 2 year full time Post Graduate Programme in Management (PGPM) (other than executive development programme), admissions to which are made through Common Admission Test conducted by IIMs, 5 year Integrated Programme in Management and Fellowship Programme in Management are being exempted from service tax.
9/2016 (Mega Exemption Notification - 25/2012)	1/03/2016	NA	"9C. services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under Skill Development Initiative (SDI) Scheme;	Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship are being exempted from service tax
9/2016 (Mega Exemption Notification - 25/2012)	1/03/2016	NA	9D. services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana under the Ministry of Rural Development by way of offering skill or vocational training courses certified by National Council For Vocational Training.	Services provided by way of skill/vocational training by Deen Dayal Upadhyay Grameen Kaushalya Yojana training partners are being exempted from service tax.
9/2016 (Mega Exemption Notification - 25/2012)	1/03/2016	NA	Exemption from Service Tax on services provided to the Government, a local authority or a governmental authority by way of construction, erection, etc. of - i. a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; ii. a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; iii. a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65B of the said Act; under a contract	The said exemption was withdrawn with effect from 1.4.2015. The same is being restored for the services provided under a contract which had been entered into prior to 01.03.2015 and on which appropriate stamp duty, where applicable, had been paid prior to that date. The exemption is being restored till 31.03.2020.

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			which had been entered into prior to the 1st March, 2015 and on which appropriate stamp duty, where applicable, had been paid prior to such date: provided that nothing contained in this entry shall apply on or after the 1st April, 2020	
9/2016 (Mega Exemption Notification - 25/2012)	1/03/2016	-	"(ba) 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 under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers.  (bb) a civil structure or any other original works pertaining to the "Beneficiary-led individual house construction / enhancement under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;"	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 (HFA) (Urban) Mission / Pradhan Mantri Awas Yojana (PMAY), except in respect of such dwelling units of the projects which are not constructed for existing slum dwellers, is being exempted from service tax.  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 (HFA) (Urban) Mission/ Pradhan Mantri Awas Yojana (PMAY) is being exempted from service tax.
9/2016 (Mega Exemption Notification - 25/2012)	1/03/2016	Services by way of construction, erection, commissioning or installation of original works pertaining to, "(a) railways, including monorail and metro;	Services by way of construction, erection, commissioning or installation of original works pertaining to, "(a) railways, excluding monorail and metro;  Explanation.-The services by way of construction, erection, commissioning or installation of original works pertaining to monorail or metro, where contracts were entered into before 1st March, 2016, on which appropriate stamp duty, was paid, shall remain exempt.	Exemption to construction, erection, commissioning or installation of original works pertaining to monorail or metro (under S. No 14 of the notification No. 25/12-ST) is being withdrawn, in respect of contracts entered into on or after 1st March 2016.
9/2016 (Mega Exemption Notification - 25/2012)	1/03/2016		"(ca) low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under:  (i) the "Affordable Housing in Partnership" component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;  (ii) any housing scheme of a State Government	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 PMAY or any housing scheme of a State Government are being exempted from service tax
9/2016 (Mega Exemption Notification - 25/2012)	1/03/2016	-	14A. Services by way of construction, erection, commissioning, or installation of original works pertaining to an airport or port provided under a contract which had been entered into prior to 1st March,	The said Exemption from Service Tax on services by way of construction, erection, etc. of original works pertaining to an airport, port was withdrawn with effect from 1.4.2015. The

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			2015 and on which appropriate stamp duty, where applicable, had been paid prior to such date: provided that Ministry of Civil Aviation or the Ministry of Shipping in the Government of India, as the case may be, certifies that the contract had been entered into before the 1st March, 2015: provided further that nothing contained in this entry shall apply on or after the 1st April, 2020	same is being restored for the services provided under a contract which had been entered into prior to 01.03.2015 and on which appropriate stamp duty, where applicable, had been paid prior to that date subject to production of certificate from the Ministry of Civil Aviation or Ministry of Shipping, as the case may be, that the contract had been entered into prior to 01.03.2015. The exemption is being restored till 31.03.2020.
9/2016 (Mega Exemption Notification - 25/2012)	1/04/2016	Consideration upto Rs One Lakh by way of services by an artist by way of a performance in folk or classical art forms of music or dance or theater are exempt from service tax.	Consideration upto Rs One Lakh and Fifty Thousand by way of services by an artist by way of a performance in folk or classical art forms of music or dance or theater are exempt from service tax.	Exemption limit for every performance for consideration charged for services provided by a performing artist in folk or classical art forms of music, dance or theatre, is being increased from Rs 1 lakh to Rs 1.5 lakh per performance
9/2016 (Mega Exemption Notification - 25/2012)	1/06/2016		Transport of passengers, with or without accompanied belongings by, A stage carriage other than air-conditioned stage carriage are exempted from service tax.	Service for non-air conditioned stage carriers are exempted from service tax
9/2016 (Mega Exemption Notification - 25/2012)	1/04/2016	NA	Services of General Insurance business provided under following scheme Niramaya- Health Insurance Scheme implemented by Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999).	Service tax exemption has been granted for services provided in Niramaya Health Insurance.
9/2016 (Mega Exemption Notification - 25/2012)	1/04/2016	NA	Services of life insurance business provided by way of annuity under the National Pension System regulated by Pension Fund Regulatory and Development Authority of India (PFRDA) under the Pension Fund Regulatory And Development Authority Act, 2013 (23 of 2013)	The services of life insurance business provided by way of annuity under the National Pension System (NPS) regulated by Pension Fund Regulatory and Development Authority (PFRDA) of India is being exempted from service tax.
9/2016 (Mega Exemption Notification - 25/2012)	1/04/2016	NA	Services provided by Employees' Provident Fund Organisation (EPFO) to persons governed under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952)	Services provided by Employees' Provident Fund Organisation (EPFO) to employees are being exempted from service tax.
9/2016 (Mega Exemption Notification - 25/2012)	1/04/2016	NA	Services provided by Insurance Regulatory and Development Authority of India (IRDA) to insurers under the Insurance Regulatory and Development Authority of India Act, 1999 (41 of 1999)	Services provided by Insurance Regulatory and Development Authority (IRDA) of India are being exempted from service tax.
9/2016 (Mega Exemption Notification - 25/2012)	1/04/2016	NA	Services provided by Securities and Exchange Board of India (SEBI) set up under the Securities and Exchange Board of India Act, 1992 (15 of 1992) by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market	Services provided by Securities and Exchange Board of India (SEBI) set up under SEBI Act, 1992, by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market are being exempted from service tax.

Notification/ Section	Amendment W.E.F.	Existing Provision	Amendment in Existing / New Provision	Bizsol Analysis
9/2016 (Mega Exemption Notification - 25/2012)	1/04/2016	NA	Services provided by National Centre for Cold Chain Development under Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination;"	Services provided by National Centre for Cold Chain Development under Department of Agriculture, Cooperation and Farmer's Welfare, Government of India, by way of knowledge dissemination are being exempted from service tax
9/2016 (Mega Exemption Notification - 25/2012)	1/06/2016	NA	Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.;"	Services by way of transportation of goods by an aircraft from a place outside India up to the customs station of clearance in India were in negative list of services [clause (p)(ii) of section 66D]. As this entry is proposed to be omitted through the Finance Bill 2016[para 4.1(C) above refers], the said service is being exempted by amending notification No.25/2012-ST
10/2016 (Amendment in POT Rule, 2011)	1/03/2016	NA	Explanation inserted under Rule 5 of POT Rules, 2011 Explanation 1.- This rule shall apply mutatis mutandis in case of new levy on services. Explanation 2.- New levy or tax shall be payable on all the cases other than specified above.	In order to remove doubts regarding applicability of POTR to new levy, this explanation have been inserted in Rule 5 of POT Rules. This will be applicable Krishi Kalyan Cess which will be effective from 1st June 2016.
11/2016 (Exemption Notification)	1/03/2016	NA	Service Tax exemption has been granted on Information Technology Software recorded on media on which RSP (MRP) is required to be mentioned.	In order to avoid duplication of levies i.e. Central excise and service tax, IT Software on which RSP is mentioned are exempted from service tax. These being goods will be subjected to central excise or custom duty as the case may be.
12/2016 (Amendment to exemption Notification 32/2012-Service Tax)	1/04/2016	NA	Services provided by bio-incubators recognized by the Biotechnology Industry Research Assistance Council, under Department of Biotechnology, Government of India	Service provided by Biotechnology Industry Research Assistance Council approved Biotechnology incubators to the incubatees will be exempted from service tax.
13/2016 (New Notification - Interest Provisions)	Assent to Finance Bill, 2016	Interest on delayed payment of service tax, <ul style="list-style-type: none"> <li>Upto 6 months- 18%</li> <li>More than 6 months &amp; upto 1 year- 18% for first 6 months, 24% thereafter</li> <li>More than 1 year- 18% for first 6 months, 24% for next 6 months and 30% thereafter</li> </ul>	Interest on delayed payment of service tax, <ul style="list-style-type: none"> <li>Collection of any amount as service tax but failing to pay the amount so collected to the credit of the Central Government on or before the date on which such payment becomes due- 24%</li> <li>Any conditions other than above- 15%</li> </ul>	Irrational interest rate have been rationalized. This is most welcome step.
14/2016 (New Notification)	Assent to Finance Bill, 2016	Interest payable u/s 73B (Interest on amount collected in excess) is 18%	Interest payable u/s 73B (Interest on amount collected in excess) is 15%	Interest rate reduced from 18% to 15%.
15/2016, 16/2016 & 17/2016 (Amendment related to removal of	1/04/2016	Rule 2 (1)(d)(i) (E) in relation to services provided or agreed to be provided by Government or local authority except,-	Rule 2 (1)(d)(i) (E) in relation to services provided or agreed to be provided by Government or local authority except,-	Finance Act, 1994 was amended vide Finance Act, 2015 so as to make any service (and not only support services) provided by Government or local authorities to business entities

Notification/ Section	Amendment W.E.F.	Existing Provision	Amendment in Existing / New Provision	Bizsol Analysis
"support services" by Government)		(a) renting of immovable property, and (b) services specified sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act,1994, to any business entity located in the taxable territory, the recipient of such service;	(a) renting of immovable property, and (b) services specified sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act,1994, to any business entity located in the taxable territory, the recipient of such service;	taxable from a date to be notified later. 1st April, 2016 has already been notified as the date from which any service provided by Government or local authorities to business entities shall be taxable. Consequently, 1st April, 2016 is also being notified as the date from which the definition of support services shall stand deleted from the Finance Act 1994
18/2016 (Reverse Charge Notification 30/2012-Service Tax)	1/04/2016	(ic) provided or agreed to be provided by a selling or marketing agent of lottery tickets to a lottery distributor or selling agent.	(ic) provided or agreed to be provided by a selling or marketing agent of lottery tickets in relation to a lottery in any manner to a lottery distributor or selling agent of the State Government under the provisions of the Lottery (Regulations) Act, 1998 (17 of 1998)	More specific entry has been made
18/2016 (Reverse Charge Notification 30/2012-Service Tax)	1/04/2016	an individual advocate or a firm of advocates, by way of legal services, or	(B) a firm of advocates or an individual advocate other than senior advocate, by way of legal services, or	As senior advocates are liable to service tax, necessary amendment has been made in reverse charge notification. Now the business entities have to pay service tax on reverse charge basis on the services received from an individual advocate (other than senior advocate) or firm of advocates. It has to be ensured by business entity whether the services are availed from Senior advocates or otherwise.  Senior Advocates means advocate designated senior advocate by SC / HC.
18/2016 (Reverse Charge Notification 30/2012-Service Tax)	1/04/2016		Sl. No. 1B and the entries relating thereto shall be omitted	In respect of service provided by mutual fund agent/ distributor to a mutual fund or asset management company will be out of the purview of reverse charge.
19/2016 (Amendment to Service Tax Rules)	1/04/2016	Proviso to Rule 6, sub rule (1) assessee is an individual or partnership firm or partnership firm, the service tax shall be paid to the credit of the Central Government by the 6th day of the month if the duty is deposited electronically through internet banking, or, in any other case, the 5th day of the month, as the case may be, immediately following the quarter in which the service is deemed to be provided	Proviso to Rule 6, sub rule (1) assessee is a one person company whose aggregate value of taxable services provided from one or more premises is fifty lakh rupees or less in the previous financial year, or is an individual or proprietary firm or partnership firm or Hindu Undivided Family, the service tax shall be paid to the credit of the Central Government by the 6th day of the month if the duty is deposited electronically through internet banking, or, in any other case, the 5th day of the month, as the case may be, immediately following the quarter in which the service is deemed to be provided	One person company having taxable service turnover 50 Lakhs or less and HUF will be entitled to pay service tax on quarterly basis.
19/2016 (Amendment to Service Tax Rules)	1/04/2016	Where an assessee is, for any reason, unable to correctly estimate, on the date of deposit, the actual amount payable for any particular month or quarter, as the case may be, he may make a request in writing to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case	Where an assessee is, for any reason, unable to correctly estimate, on the date of deposit, the actual amount payable for any particular month or quarter, as the case may be, he may make a request in writing to the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case	Technical amendment w.r.t Central Excise Rule reference has been made

Notification/ Section	Amendment W.E.F.	Existing Provision	Amendment in Existing / New Provision	Bizsol Analysis
		may be, giving reasons for payment of service tax on provisional basis and the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, on receipt of such request, may allow payment of service tax on provisional basis on such value of taxable service as may be specified by him and the provisions of the Central Excise (No.2) Rules, 2001, relating to provisional assessment, except so far as they relate to execution of bond, shall, so far as may be, apply to such assessment.	may be, giving reasons for payment of service tax on provisional basis and the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, on receipt of such request, may allow payment of service tax on provisional basis on such value of taxable service as may be specified by him and the provisions of the Central Excise Rules, 2002, relating to provisional assessment, except so far as they relate to execution of bond, shall, so far as may be, apply to such assessment.	
19/2016 (Amendment to Service Tax Rules)	1/04/2016	NA	in sub-rule (7A), after clause (i), the following clause shall be inserted, namely:- "(ia) in case of single premium annuity policies other than (i) above, 1.4 per cent. of the single premium charged from the policy holder	The service tax liability on single premium annuity (insurance) policies is being rationalised and the effective alternate service tax rate (composition rate) is being prescribed at 1.4% (brought down from 3.5%) of the total premium charged, in cases 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. Amendments are being made in rule 7A of Service Tax Rules, 1994 accordingly.
19/2016 (Amendment to Service Tax Rules)	1/04/2016	NA	"(3A) Notwithstanding anything contained in sub-rule (1), every assessee shall submit an annual return for the financial year to which the return relates, in such form and manner as may be specified in the notification in the Official Gazette by the Central Board of Excise and Customs, by the 30th day of November of the succeeding financial year; (3B) The Central Government may, subject to such conditions or limitations, specify by notification an assessee or class of assesses who may not be required to submit the annual return referred to in sub-rule(3A)	New annual return has been specified for the service provider by 30th November every year. The class of service provider will be exempted from this compliance. This is in line with ER-4 submitted by the central excise assessees.
19/2016 (Amendment to Service Tax Rules)	1/04/2016		(2) An assessee who has filed the annual return referred to in sub-rule (3A) of rule 7 by the due date may submit a revised return within a period of one month from the date of submission of the said annual return.	Annual return can be revised within one month from the date of submission.
19/2016 (Amendment to Service Tax Rules)	1/04/2016	Vari	"(2) Where the annual return referred to in sub-rule (3A) of rule 7 is filed by the assessee after the due date, the assessee shall pay to the credit of the Central Government, an amount calculated at the rate of one hundred rupees per day for the period of delay in filing of such return, subject to a maximum of twenty thousand rupees.	Penalty of 100Rs per day maximum upto 20,000/- has been proposed for delay filing of annual return.

## INDIRECT TAX DISPUTE RESOLUTION SCHEME

### INDIRECT TAX DISPUTE RESOLUTION SCHEME, 2016

- It will be applicable for all the disputes pending before Commissioner (Appeals) as on 01.03.2016 and will be valid upto 31.12.2016.
- Applicable for dispute related to Central Excise, Customs and Service Tax matters.
- Assistant Commissioner / Deputy Commissioner will be designated authority under the scheme as notified.
- Declaration needs to be filed by the declarant (Appellant) opting for such scheme in the prescribed format.
- Declarant (Appellant) will have to discharge duty liability along with interest and 25% penalty within 15 days after declaration is filed and acknowledged.
- Submit the proof of payment within 7 days from the date of payment.
- Designated authority will pass an order of discharging the dues
- Provision of this scheme is not applicable if,
  - (a) the impugned order is in respect of search and seizure proceeding; or
  - (b) prosecution for any offence punishable under the Act has been instituted before the 1st day of June, 2016; or
  - (c) the impugned order is in respect of narcotic drugs or other prohibited goods; or
  - (d) impugned order is 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; or
  - (e) any detention order has been passed under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974.
- After getting the discharge order, Appeals before Commissioner (Appeals) will be stand disposed and immunity from other proceedings will be granted.
- No re-opening of discharge order is permitted.
- No refund also will be granted after the payment by the declarant.
- Such declaration & discharge order will not be considered merit and will not have any binding effect.
- Central Govt will make necessary rules in this regard.

## AMENDMENT TO THE CENTRAL SALES TAX ACT, 1956

### Explanation 3 to Section 3

221. In the Central Sales Tax Act, 1956, in section 3, after Explanation 2, the following Explanation shall be inserted, namely:-

"Explanation 3.-- Where the gas sold or purchased and transported through a common carrier pipeline or any other common transport or distribution system becomes co-mingled and fungible with other gas in the pipeline or system and such gas is introduced into the pipeline or system in one State and is taken out from the pipeline in another State, such sale or purchase of gas shall be deemed to be a movement of goods from one State to another."

### Bizsol Analysis

Explanation 3 has been inserted to consider inter state sale where the gas sold or purchased and transported through a common carrier pipeline or any other common transport or distribution system becomes co-mingled and fungible with other gas in the pipeline or system and such gas is introduced into the pipeline or system in one State and is taken out from the pipeline in another State, such sale or purchase of gas shall be deemed to be a movement of goods from one State to another."

# What's New...!!

## CUSTOMS

### Notifications:

#### Tariff:

- Exemption from concessional rate of BCD @ Nil has been withdrawn on Naphtha for the manufacture of polymers, imported by M/s Haldia Petrochemicals Limited (HPL) by amending the Notification No. 12/2012 Cus Dated 17th March 2012. **[Notification No.7/2016-Cus dated 2nd February 2016]**
- Procedure for exempting the goods imported for

display / demonstration in a trade / industrial fair / exhibition etc. has been simplified. Now certificate is required from AC/DC from Customs instead of an Under Secretary to the Government of India in the Ministry of Commerce or an officer of the India Trade Promotion Organization. **[Notification No.8/2016-Cus dated 5th February 2016]**

- Customs duty on import of electricity has been imposed @ 100 paisa per KWH except for import from Nepal, Bhutan and SEZ. Duty rates for clearance of electricity from SEZ is specified as below:

Sr. No.	Chapter/ heading/ sub-heading / tariff item	Description of goods	Standard rate (paisa per KWh)
(1)	(2)	(3)	(4)
146A.	27160000	Electrical energy supplied from Processing Area of SEZ to Domestic Tariff Area (DTA), generated using-	
		(a) imported coal as fuel	40
		(b) domestic coal as fuel	65
		(c) mix of domestic gas/RLNG (Regasified Liquefied Natural Gas) as fuel	59
		(d) RLNG as fuel	89
146B.	27160000	Electrical energy supplied from Non-Processing Area of SEZ to Domestic Tariff Area, generated using-	
		(a) imported coal as fuel	24
		(b) domestic coal as fuel	24
		(c) mix of domestic gas/RLNG as fuel	18
		(d) RLNG as fuel	21
146C.	27160000	Electrical energy supplied to DTA by power plants of 1000MW or above, and granted formal approval for setting up in SEZ prior to 27th February, 2009.	Nil
146C. (ii)	27160000	Electrical energy supplied to DTA from power plants of less than 1000MW, and granted formal approval for setting up in SEZ prior to 27th February, 2009	
		(a) imported coal as fuel	24
		(b) domestic coal as fuel	24
		(c) mix of domestic gas/RLNG as fuel	18
		(d) RLNG as fuel	21

**[Notification No.9/2016-Cus dated 16th February 2016]**

- Exemption on Octreotide&Somatropin has been restored now; the exemption was withdrawn earlier this year. These products are chargeable @ 5% when used as/in the Drugs, medicines, diagnostic kits or equipment. Anti-Haemophilic Factor Concentrate (VIII and IX) is now exempted from payment of duty when used in/for life saving

drugs. **[Notification No.10/2016-Cus dated 17th February 2016]**

**Non-Tariff:**

- Tariff Value of following Imported goods have been further amended as given below:

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$ Per Metric Tonne)
(1)	(2)	(3)	(4)
1	1511 10 00	Crude Palm Oil	621
2	1511 90 10	RBD Palm Oil	635
3	1511 90 90	Others - Palm Oil	628
4	1511 10 00	Crude Palmolein	642
5	1511 90 20	RBD Palmolein	645
6	1511 90 90	Others - Palmolein	644
7	1507 10 00	Crude Soya bean Oil	748
8	7404 00 22	Brass Scrap (all grades)	2930
9	1207 91 00	Poppy seeds	2464

Sl. No.	Chapter/ heading/ sub-heading/tariff item	Description of goods	Tariff value (US \$)
(1)	(2)	(3)	(4)
1	71 or 98	Gold, in any form, in respect of which the benefit of entries at serial number 321 and 323 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	403 per 10 grams
2	71 or 98	Silver, in any form, in respect of which the benefit of entries at serial number 322 and 324 of the Notification No. 12/2012-Customs dated 17.03.2012 is availed	510 per kilogram

Sr. No.	Chapter/ heading/ sub-heading / tariff item	Description of goods	Tariff value US \$ (Per Metric Tonne)
(1)	(2)	(3)	(4)
1	80280	Areca nuts	2599

**[Notification No. 25/2016-Cus (NT) dated 15th February 2016]**

- Village Jattipur, near Samalkha, Panipat has been appointed as Customs Port for Unloading of imported goods and loading of export goods. **[Notification No.27/2016-Cus dated 18th February 2016]**
- Sikta in West Champaran District, Bihar on Road connecting Sikta in West Champaran District, Bihar in India and Bhiswabazar in Nepal has been appointed as land customs station for the clearance of all goods or any class of goods imported or exported by land. **[Notification No.28/2016-Cus dated 18th February 2016]**

#### **Anti-Dumping Duty:**

- Rectification has been made in the No. 51/2015-Customs (ADD), dated the 21/09/2015 w.r.t. the tariff head. Anti-Dumping duty was been levied on all Fully Drawn or Fully Oriented Yarn/Spin Draw Yarn/Flat Yarn of Polyester vide the notification. **[Notification 05/2016-Cus (ADD), dated 22-02-2016]**

#### **Safeguards Duty:**

- No new Notifications.

#### **Circulars:**

- The Central Board of Excise and Customs is implementing the scheme of 'Indian Customs Single Window Project' to facilitate trade. This project will be providing the single window to importers and exporters to electronically lodge their Customs clearance documents. The required permission would be obtained online without the importer /exporter having to separately approach the agencies as specified in the circular. **[Circular No. 3/2016 dated 03/02/2016]**
- Procedure for investigation of related party import cases and other cases by the Special Valuation Branches have been amended so as to make them in line with the recent proceedings. **[Circular No. 4/2016 & 5/2016 dated 09/02/2016]**
- Duty Drawback rates for specified items have been amended w.r.t. certain products. **[Circular No. 6/2016 dated 09/02/2016]**

#### **Instructions:**

- It has been again clarified that Extension of warehousing period for Capital Goods procured by STP/EHTP/EOU will be coterminous with the LOP validity; it is to be extended at the time of renewal of LOP without tracking date of actual procurements of Capital Goods. **[DGEP/FTP/07/2015 dated 15/02/2016]**
- It has been again clarified that procurement certificate except for EOU units in chemical & textile sector are to be signed by jurisdictional superintendent only. In case of units in chemical sector & textile sector, procurement certificate to be countersigned by jurisdictional Assistant/Deputy Commissioner of Customs or Central Excise. **[DGEP/FTP/07/2015 dated 15/02/2016]**
- Instructions w.r.t. Minimum Import Price (MIP) on Iron and Steel under Chapter 72 of ITC (HS), 2012- Schedule-I has been issued accordingly Import Policy is amended w.r.t. Import Policy Conditions. **[Instruction No.10/2016 F.No.450/15/2016-CUS-IV dated 17/02/2016]**
- It has been brought to notice of Board that after implementation of Single Window NOC Module, ex-bond Bills of Entry are getting referred to Participating Government Agencies (PGAs) for No Objection Certificate even though the same goods had received NOC from PGA at the time of warehousing i.e. at the into bond Bill of Entry stage.

The issue has been examined and it is decided that all regulatory checks shall be applied at the intobond stage for a Bill of Entry for Warehousing. However, in-case of imported goods, of a nature, in respect of which it may not be feasible for PGA to give NOC immediately then such goods, may be allowed facility of section 49 of the Customs Act, 1962, till such time the issue of NOC is decided. **[Instruction F.No.450/147/2015-CUS-IV dated 26/02/2016]**

## **CENTRAL EXCISE**

#### **Notifications:**

#### **Tariff:**

- Excise duty on Petrol increased by Re.1.75 per litre and on diesel by Rs.3.5 per litre from 31st

January 2016. **[Notification No. 04/2016-CE dated 30th Jan 2016]**

**Non-Tariff:**

- There is no CVD leviable on the ships imported for breaking up, board have removed the provision restricting the Credit upto 85% whereby removing unnecessary provision. **[Notification No. 01/2016-CE (NT), dated 1st February 2016]**
- Amendments in CCR, 2004 have been made. CENVAT Credit of any duty cannot be utilized for payment of Swachh Bharat Cess. Explanation has been added to Input service definition clarifying that sales promotion includes services by way of sale of dutiable goods on commission basis. **[Notification No. 02/2016-CE (NT), dated 3rd February 2016]**
- Exemption has been granted for removal of goods without Payment of duty for products cleared for 'Kholongchhu Hydro Electric Project' in Bhutan. **[Notification No. 03/2016-CE (NT), dated 3rd February 2016]**
- Di-calcium Phosphate (Animal Feed Grade) is exempted from payment of duty under Section 11C for the period 1st Feb 2008 to 1st Feb 2014. There is exemption applicable at present for the period 3rd Feb 2014 onwards. **[Notification No. 04/2016-CE, dated 12th February 2016]**

**Circulars:**

- Clarification w.r.t Ship Breaking has been issued, the product which is not manufactured is not supposed to have Excise Duty, Ships for breaking activity does not amount to manufacture, and hence there is no requirement of paying the CVD. Further, restriction has been withdrawn on availment of CENVAT on CVD paid at the time of import. **[Circular No.-1014/2/2016-CX, dated 1st February 2016]**
- There is exemption from Excise duty by way of refund on purchase of Cars by Handicapped person. However the same are getting rejected on the ground of being time barred. This is due to delay caused in getting the required certificate from line ministry. In order to give the benefit to beneficiaries, instruction has been given to the

Excise, that they should accept the claim, issue deficiency memo for the certificate and sanction only when all documents are available. The basic intention seems to be that the people should not suffer from red tapism. **[Circular No.-1015/3/2016-CX, dated 3rd February 2016]**

- It has been clarified that if two or more premises of the same factory are located in a close area, these premises are within the jurisdiction of a Central Excise Range and the process undertaken there are interlinked and the units are not operating under any of the area based exemption notifications, the Commissioner of Central Excise, may, subject to proper accountal of the movement of goods from one premise to other and such other conditions and limitations, as may be prescribed, allow single registration. **[Circular No. 1016/4/2016-CX, dated 29th February 2016]**
- Now facility of issuing of Certificate as proof of payment of Central Excise duty is also extended to entire industry as a matter of trade facility including Small Scale Industry. **[Circular No. 1017/5/2016-CX dated 29th Feb 2016]**
- Detailed clarifications and instructions have been issued w.r.t. Withdrawal from prosecution in Central Excise cases older than 15 years involving duty less than rupees five lakhs. **[Circular No. 1018/6/2016-CX dated 29th Feb 2016]**
- Reduction in interest rate i.e. from 24% to 15% p.a. on goods, warehoused for export, when diverted for home-consumption. **[Circular No. 1019/7/2016-CX dated 29th Feb 2016]**

**Instructions:**

- It has been instructed to all the Principal Commissioners/ Chief Commissioners to send a copy of each application filed for withdrawal of appeal before CESTAT to the Chief Commissioner (AR), CESTAT. **[F.No.390/Misc./163/2010-JC dated 04/02/2016]**

**LBT:**

- No new notification.

## SERVICE TAX

### Notifications:

- Notification No. 41/2012-ST dated 29/06/2012 amended so as to allow 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 the export of the said goods and to increase the refund amount commensurate to the increased service tax rate. **[Notification No. 1/2016 ST dated 03/02/2016]**
- Notification No. 12/2013-ST dated the 01/07/2013 amended so as to allow refund of Swachh Bharat Cess paid on specified services used in an SEZ. **[Notification No. 2/2016 ST dated 03/02/2016]**
- Notification No. 39/2012-ST dated 20/06/2012 amended so as to provide for rebate of Swachh Bharat Cess paid on all services, used in providing services exported in terms of rule 6A of the Service Tax Rules. **[Notification No. 3/2016 ST dated 03/02/2016]**
- RBI and Electricity Authorities are required to file the annual returns w.e.f. 1st April 2016. Information w.r.t. entities whose aggregate receipts are more than fifty lakh rupees to be furnished by RBI. Electricity authorities are required to file the details w.r.t. the electricity consumed by manufacturer whose aggregate value of clearance is more than 150 lakhs. **[Notification No. 4/2016 ST dated 15/02/2016]**.
- Exemption has been provided from payment of SBC for services which have been exempted under section 93(2) of the Finance Act, 1994. This is rectification made for erroneous exclusion made by department at the time of issuance of exempting the Swach Bharat Cess. **[Notification No. 5/2016 ST dated 17/02/2016]**.
- All Services provided by the Government to any Business Entity are taxable w.e.f 1st April 2016. However exemption is provided to unit having turnover up to Rs. 10 Lakhs. **[Notification No. 6/2016 ST & 07/2016 dated 18/02/2016]**.

### Circular:

- No new Circulars.

### Instructions:

- It has been instructed to all the Principal Commissioners/ Chief Commissioners to send a copy of each application filed for withdrawal of appeal before CESTAT to the Chief Commissioner (AR), CESTAT. **[F.No.390/Misc./163/2010-JC dated 04/02/2016]**

## MVAT

### Notifications

- Banks have been notified for obtaining bank guarantee under Rule 61 of the MVAT Rules, 2002 **[Notification No. MVAT 1514/CR-44/TAXATION-1 dated 12TH February 2016]**
- For the period from 1st March 2016 to 28th February 2017 VAT rate on sale of HSD to retailer within Nagpur Municipal Corporation is @ 24% + Two rupees Per Ltr& for other than retail trader it is 21% + Two rupees Per Ltr. **[Notification No. MVAT 1516/CR-39(A)/TAXATION-1 dated 29TH February 2016]**

### Trade Circulars:

- Online Registration under MVAT is now been more simplified as below,
  - o Details of PAN will suffice instead of copy of PAN card
  - o A copy of form DIR 12 will be sufficient instead of required pages from MOM or AOA
  - o For address proof following documents can be accepted
- Latest copy of landline bill
- Latest copy of Gas connection
- First page of Bank Passbook,
  - o Online sellers working for online selling portals needs to submit the copy of agreement with the main company.[4T of 2016 dated 05/02/2016]
- It has been instructed to expedite the process of granting eligible refund claimed in form 501 within 45 days. Assessment of dealers whose refund in a year is Rs 1 crore or below and who have filed application within time shall be completed

within 31st December of next year. **[5T of 2016 dated 06/02/2016]**

- Application for Refund for excess amount paid by mistake can now be made after due date of filling of the return, previously the application in such case was required to be made after the end of the year. **[6T of 2016 dated 23/02/2016]**

## COMPANY LAW

### Notifications:

- No new notifications.

### Circulars:

- No new Circulars.

## FOREIGN TRADE POLICY

### Notifications:

#### Notifications:

- Only two documents are required to be uploaded /submitted along with the digital photograph while applying for New IEC. Applications for new IEC/ modification in IEC can be made only online mode by applicants through digital signatures with effect from 01.04.2016. **[Notification No. 34/2015-2020 dated 29/01/2016]**
- Import of Capital goods is not permitted under EPCG Scheme for generation /transmission of power. **[Notification No. 35/2015-2020 dated 29/01/2016]**
- Import of EURO III and EURO IV compliant motorcycle shall be allowed to be imported till 31/03/2017. Thereafter only import of EURO IV compliant motorcycles would be allowed. **[Notification No. 36/2015-2020 dated 02/02/2016]**
- Conditions for export sesame seeds to European Union countries have been notified. **[Notification No. 37/2015-2020 dated 03/02/2015]**
- Minimum Import Price is introduced against 173 HS code under chapter 72 w.r.t. 'Iron & Steel. **[Notification No. 38/2015-2020 dated 05/02/2015]**
- The Procedure/conditions for export of sesame

seeds to European Union countries will come in to force with effect from 10.03.2016.

**[Notification No. 39/2015-2020 dated 11/02/2015]**

- Export of 'Roasted Gram (whole/Split) in consumer packs up to 1 kg has been permitted. **[Notification No. 40/2015-2020 dated 15/02/2015]**

### PUBLIC NOTICES:

- Procedures for processing pending application / cases in RA for issuance and transferability of DFIA's have been issued w.r.t. a) cases where authorization could not be issued up to 1.04.2015 b) Cases where DFIA (not involving import of raw sugar as an input) was issued as per provisions of FTP 2009-14 but request for transferability could not be considered up to 30.03.2015. c) Cases involving import of raw sugar where request for transferability could not be considered. **[Public Notice No. 56/2015-20 dated the 22/01/2016]**
- The validity of recognition of those Pre-shipment Inspection Agencies (PSIAs) included in the Appendix 2G of Appendices and Aayat Niryat Forms A&ANF) of Foreign Trade Policy (2015-20) who have completed their tenure of three years as PISAs as on date or whose validity would expire on or before 31st May, 2016, is extended up till 31st May, 2016. **[Public Notice No. 57/2015-20 dated the 27/01/2016]**
- The manual mode of applications for IEC will cease to exist w.e.f. 1.4.2016 and only online applications for IEC /modification in IEC would be accepted with digital signatures w.e.f. 1.4.2016. **[Public Notice No. 58/2015-20 dated the 01/02/2016]**
- The validity of recognition of those Pre-shipment Inspection Agencies (PSIAs) included in the Appendix 2G of Appendices and Aayat Niryat Forms A&ANF) of Foreign Trade Policy (2015-20) who have completed their tenure of three years as PISAs as on date or whose validity would expire on or before 31st May, 2016, is extended up till 31st May, 2016. **[Public Notice No. 59/2015-20 dated the 02/02/2016]**

- The manual mode of applications for IEC will cease to exist w.e.f. 1.4.2016 and only online applications for IEC /modification in IEC would be accepted with digital signatures w.e.f. 1.4.2016. **[Public Notice No. 60/2015-20 dated the 03/02/2016]**
- Standard Input Output Norms (SION) for Malted Milk Food (E-133) under Food Products Group has been notified. **[Public Notice No. 61/2015-20 dated the 23/02/2016]**
- The total quantum of import of Vanaspati, bakery shortening and margarine, Pepper and Desiccated Coconut that can be imported in each financial year under Indo-Sri Lanka Free Trade Agreement has been notified. Earlier it was notified only for the FY 2015-16. **[Public Notice No. 61/2015-20 dated the 25/02/2016]**

#### **TRADE NOTICES:**

- Now advance authorization holder can fulfill export obligation even when supplies made to SEZ units and realization made in Indian Rupees on supplies made till 31st Mar 2015. Payment from Foreign Currency Account will be required for supplies made thereafter. **[Trade Notice No. 16/2015 dated the 10/02/2016]**
- Detailed clarifications in FAQ format have been issued regarding minimum import price on Iron & Steel under Chapter 72 of ITC HS. **[Trade Notice No. 17/2015 dated the 10/02/2016]**
- Detailed instructions have been issued with regards to online IEC and Modification of IEC application. It has been clarified that now only two documents are required to be uploaded with digital photograph for online IEC and modification in IEC. **[Trade Notice No. 18/2015 dated the 12/02/2016]**
- Clarification has been issued w.r.t. applicability of Focus Product Scheme to exports of OMPRAZOLE / LANSOPRAZOLE as API. These goods exported individually are entitled for FPS. Accordingly RA's have been instructed to process the applications. **[Trade Notice No. 19/2015 dated the 17/02/2016]**
- Revised guidelines / formats have been issued for export of SCOMET items. **[Trade Notice No. 20/2015 dated the 19/02/2016]**

#### **FEMA / RBI**

- Settlement of Export/ Import transactions in currencies not having a direct exchange rate:

As per Notification No. FEMA. 14 /RB -2000, dated 3rd May 2000, export proceeds for exports from India and import payments for imports to India received / made in any mode has to be in Permitted currency, which means a foreign currency which is freely convertible and has a direct exchange rate.

To further liberalize the procedure and facilitate settlement of export and import transactions where the invoicing is in a freely convertible currency and the settlement takes place in the currency of the beneficiary, which though convertible, does not have a direct exchange rate, it has been decided that AD Category-I banks may permit settlement of such export and import transactions (excluding those put through the ACU mechanism), subject to the following conditions:

- o Exporter/ Importer shall be a customer of the AD Bank.
- o Signed contract / invoice is in a freely convertible currency,
- o The beneficiary is willing to receive the payment in the currency of beneficiary instead of the original (freely convertible) currency of the invoice/ contract/ Letter of Credit as full and final settlement.
- o AD bank is satisfied with the bonafides of the transactions, and;
- o The counterparty to the exporter / importer of the AD bank is not from a country or jurisdiction in the updated FATF Public Statement on High Risk & Non Co-operative Jurisdictions on which FATF has called for counter measures

**[RBI/2015-16/307 A.P. (DIR Series) Circular No. 42, February 4, 2016]**

- Foreign Exchange Management (Acquisition and Transfer of Immovable Property outside India) Regulations, 2015

As per A.P. (DIR Series) Circular No. 43/2015-16 [(1)/7(R)] dated 4th February, 2016, in

consultation with the Government of India, A.D.(M.A. Series) Circular No. 11 dated May 16, 2000 have been repealed and replaced by the Foreign Exchange Management (Acquisition and Transfer of Immovable Property outside India) Regulations, 2015.

In terms of these Regulations, acquisition or transfer of any immovable property outside India by a person resident in India would require prior approval of Reserve Bank except in the following cases:

- a) Property held outside India by a foreign citizen resident in India;
- b) Property acquired by a person on or before 8th July, 1947 and held with the permission of the Reserve Bank;
- c) Property acquired by way of gift or inheritance;
- d) Property purchased out of funds held in Resident Foreign Currency (RFC) account in accordance with the Foreign Exchange Management (Foreign Currency Accounts by a person resident in India) Regulations, 2015;
- e) Property acquired jointly with a relative who is a person resident outside India provided there is no outflow of funds from India;
- f) Property acquired by way of inheritance or gift from a person resident in India who acquired such property in accordance with the foreign exchange provisions in force at the time of such acquisition

An Indian company having overseas offices may acquire immovable property outside India for its business and residential purposes provided total remittances do not exceed the following limits prescribed for initial and recurring expenses:

- a) 15 % of the average annual sales/ income or turnover of the Indian entity during the last two financial years or up to 25 per cent of the net worth, whichever is higher;
- b) 10 % of the average annual sales/ income or turnover during the last two financial years.

The new regulations have been notified vide

Notification No. FEMA 7(R)/2015-RB dated January 21, 2016 c.f. G.S.R. No. 95(E) dated January 21, 2016 and shall come into force with effect from January 21, 2016.

**[RBI/2015-16/308, A.P. (DIR Series) Circular No. 43/2015-16 [(1)/7(R), February 04, 2016]**

- Foreign Exchange Management (Foreign currency accounts by a person resident in India) Regulations

In terms of Regulation No. 4, a person resident in India may open, hold and maintain with an authorized dealer in India the following accounts, subject to the conditions specified in the regulations:

1. Exchange Earner's Foreign Currency (EEFC) Account subject to the terms and conditions of the Exchange Earner's Foreign Currency Account Scheme.
2. Resident Foreign Currency (RFC) Account out of sources of receipt of foreign exchange.
3. Resident Foreign Currency (Domestic) [RFC(D)] Account with an authorised dealer in India out of sources of receipt of foreign exchange.
4. Diamond Dollar Account (DDA) - firms and companies who comply with the eligibility criteria stipulated in the Foreign Trade Policy of Government of India, subject to the terms and conditions of the DDA Scheme.

Also, as per Regulation No. 4, the following persons resident in India can open, hold or maintain the above mentioned accounts inside India with AD Banks in India:

1. A unit in a Special Economic Zone.
2. An exporter who is exporting services and engineering goods on deferred payment terms or has undertaken a turnkey project or a construction contract abroad.
3. Indian agents of foreign airline or shipping companies.
4. Ship-manning/ crew managing agencies in India.
5. Project offices set up in India in terms of

Foreign Exchange Management ((Establishment in India of Branch or Office).

6. Indian companies receiving Foreign Direct Investment.
7. Organizers of international seminars, conferences, conventions etc.

In terms of Regulation No. 5, the following persons resident in India can open, hold or maintain the above mentioned accounts outside India:

1. An authorized dealer in India with its branch/ head office/ correspondent outside India.
2. A branch outside India of a bank incorporated or constituted in India.
3. An India firm/ company/ body corporate in the name of its foreign office/ branch or its representative posted outside India.
4. An exporter who is exporting services and engineering goods on deferred payment terms or has undertaken a turnkey project or a construction contract abroad.
5. An Indian Party who is making overseas direct investments provided the overseas regulator requires the maintenance of such an account
6. A person raising ECB or ADR/ GDR.
7. Indian shipping or airline companies.
8. Life Insurance Corporation (LIC) of India or General Insurance Corporation (GIC) of India and its subsidiaries for the purpose of carrying on life/ general insurance business.
9. A resident individual under the Liberalized Remittance Scheme.
10. A person going abroad to participate in an exhibition/ trade fair.
11. A person going abroad for studies.
12. A person who is on a visit to a foreign country provided the balances are repatriated on return to India.
13. A foreign citizen resident in India, being an employee of a foreign company, or an Indian citizen, being an employee of a foreign company, in either case on deputation to the office/ branch/ subsidiary/ joint venture/

group company in India.

14. A foreign citizen resident in India employed with an Indian company

As per Regulation No. 6, a Foreign Currency Account with an AD Bank in India can be opened, held and maintained in the form of Savings, Current or Term Deposit accounts for an individual, and in the form of Current or Term Deposit accounts for all other entities.

**[RBI/2015-16/309 A.P. (DIR Series) Circular No.44/2015-16 [(1)/10(R)], February 04, 2016]**

- Foreign Exchange Management (Export and Import of Currency) Regulations:

As per A.P. (DIR Series) Circular No. 45/2015-16 [(1)/6(R)] which gives a synopsis of new Regulations of the Foreign Exchange Management regarding Export and Import of Currency including to/from Nepal or Bhutan.

The RBI clarifies in this notification that the new regulations that have been notified in Notification No. FEMA. 6 (R)/2015-RB dated December 29, 2015, c.f. G.S.R. No.1004 (E) dated December 29, 2015 shall come into force with effect from December 29, 2015.

**[RBI/2015-16/310 A.P. (DIR Series) Circular No. 45/2015-16 [(1)/6(R)], February 04, 2016]**

- Foreign Exchange Management (Realisation, repatriation and surrender of foreign exchange) Regulations

As per A.P. (DIR Series) Circular No.46/2015-16 [(1)/9(R)] which gives the synopsis of new Regulations of Foreign Exchange Management regarding Realisation, repatriation and surrender of foreign exchange with respect to the Duties of persons to realise foreign exchange due, manner of Repatriation, period for surrender of realised foreign exchange and Period for surrender of received/realised/unspent/unused foreign exchange by Resident individuals.

The RBI clarifies in this notification that the new regulations that have been notified in Notification No. FEMA. 9(R)/2015-RB dated December 29, 2015, c.f. G.S.R. No.1005 (E) dated December 29, 2015 shall come into force with effect from December 29, 2015.

**[RBI/2015-16/311 A.P. (DIR Series) Circular No.46/2015-16 [(1)/9(R)] February 04, 2016]**

- Foreign Exchange Management (Possession and Retention of Foreign Currency) Regulations, 2015

As per A.P. (DIR Series) Circular No.47/2015-16 [(1)/11(R)] which gives the synopsis of new Regulations of Foreign Exchange Management regarding Possession and Retention of Foreign Currency by person resident in India and non-resident in India.

The RBI clarifies that the new regulations that have been notified in Notification No. FEMA. 11(R)/2015-RB dated December 29, 2015, c.f. G.S.R. No.1006 (E) dated December 29, 2015 shall come into force with effect from December 29, 2015.

**[RBI/2015-16/312 A.P. (DIR Series) Circular No.47/2015-16 [(1)/11(R)] February 04, 2016]**

- Interest Equalisation Scheme on Pre and Post Shipment Rupee Export Credit

As per the announcement made under DCBR.CO.SCB.Cir. No. 1/13.05.000/2015-16, the Government of India had announced the Interest Equalisation Scheme on Pre and Post Shipment Rupee Export Credit to eligible exporters. The scheme is effective from April 1, 2015.

Accordingly, scheduled Urban Cooperative Banks holding AD Category-I licenses are also eligible under the Scheme and are advised to adhere to the following operational procedure for claiming reimbursement

The procedure for passing on the benefit of interest equalisation to exporters:

- For the period April 1, 2015 to January 31, 2016 banks shall identify the eligible exporters as per the Government of India scheme and credit their accounts with the eligible amount of interest equalisation.
- From the month of February 2016 onwards, banks shall reduce the interest rate charged to the eligible exporters as per the extant guidelines on interest rates on advances by the rate of interest equalisation provided by Government of India.

- The interest equalisation benefit will be available from the date of disbursement up to the date of repayment or up to the date beyond which the outstanding export credit becomes overdue. However, the interest equalisation will be available to the eligible exporters only during the period the scheme is in force.

The procedure for claiming reimbursement of interest equalisation benefit already passed on to eligible exporters:

- The sector-wise consolidated reimbursement claim for the period April 1, 2015 to January 31, 2016 for the amount of interest equalisation already passed on to eligible exporters should be submitted to RBI by February 29, 2016.
- The sector-wise consolidated monthly reimbursement claim for interest equalisation for the period February 2016 onwards should be submitted in original within 15 days from the end of the respective month, with bank's seal and signed by authorised person, in the prescribed format.
- The claims should be accompanied by an External Auditor's Certificate (with stamp and membership number) certifying that the claim for interest equalisation of Rupees... for the month ended... has been verified and found to be strictly in accordance with the provisions of the Government scheme enclosed with the circular DCBR.CO.SCB.Cir. No.1/13.05.000/2015-16 dated February 11, 2016
- The claims may be submitted to the Principal Chief General Manager, Department of Cooperative Bank Regulation, Reserve Bank of India, Central Office, C-7 BandraKurla Complex, 1st and 2nd Floor, Bandra (East), Mumbai - 400051.
- The reimbursement of interest equalisation claim will be made as and when the funds are received from Government of India.

**[RBI/2015-16/322, DCBR CO SCB Cir. No, 1/13.05.000/2015-16 February 11, 2016]**

- Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India)

As per Notification No.FEMA.361/2016-RB the RBI Amended the rules and regulations under Foreign Exchange Management for Transfer or Issue of Security by a Person Resident outside India Regulations.

- (i) These Regulations may be called the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Amendment) Regulations, 2016.

- (ii) They shall come into force from the date of their publication in the Official Gazette.

Please refer Schedule 3 of new regulations regarding Acquisition of Securities or Units by

a Non-Resident Indian (NRI) on a Stock Exchange in India on Repatriation basis under the Portfolio Investment Scheme and Schedule 4 for Acquisition of Securities or units by

a Non-Resident Indian (NRI), on Non-Repatriation basis. (<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=10288&Mode>)

**[Notification No.FEMA.361/2016-RB February 15, 2016]**



## FX Updates

USD/INR (\$)				
The Rupee breached its psychological support of 67.50 levels and touched a 1-month high of 67.34 on 3rd March '15, on the back of improved global risk-appetite. India's manufacturing PMI rose in February, which also supported the Rupee. The Union Budget released late last month showed a balance between economic growth and fiscal prudence, which is likely to support local equities. Renewed bets on an interest-rate cut by the RBI are likely to support the demand for the Rupee in the coming month.				
EUR/INR (€)				
The INR gained steadily against the EUR on the back of lower-than-expected EZ economic data. The EZ's economy slipped into deflation in February '16 on the back of weak energy prices. The Euro is likely to remain subdued due to bleak economic outlook out of the EZ and the weak data could push the ECB to further ease its monetary stimulus. Concerns over the EU referendum and weak energy prices are likely to keep the Euro under pressure.				
GBP/INR (£)				
The Indian Rupee witnessed major gains against the Sterling on the back of poor UK economic data. Uncertainty over Britain's position in the EU continued to weigh on investor sentiment. The Sterling came under renewed pressure following London Mayor Boris Johnson's support for Brexit. BoE Governor Mark Carney hinted that the Central Bank was likely to cut interest-rates and increase its bond-buying programme in order to boost Britain's economy.				
JPY/INR (¥)				
The Yen continued to strengthen against the Rupee on the back of an increase in demand for the safe-haven Yen due to global risk aversion. However, gains in the JPY were limited towards the end of the month on the back of improved crude oil prices. The BoJ Governor said that the Central Bank would not push its interest-rates further into negative territory. The INR could reverse the current trend and trade higher against the Yen due to improved global risk appetite.				
Tenure	USD/INR	EUR/INR	GBP/INR	JPY/INR
Current Levels (03/03/2016)	67.36	73.23	94.74	0.5908
1 Week	67.20-67.90	72.95-73.35	94.50-95.15	0.5885-0.5920
2 Weeks	67.05-68.00	72.85-73.50	94.45-95.35	0.5870-0.5940
4 Weeks	66.80-68.40	72.50-73.85	93.85-95.75	0.5890-0.5980

### Key Economic Indicators

Date	Currency	Event	Forecast	Previous
04-03-2016	USD	Average Hourly Earnings	0.2%	0.5%
09-03-2016	GBP	Manufacturing Production	-	-0.2%
10-03-2016	EUR	ECB Press Conference	-	-
11-03-2016	INR	Industrial Production	0.02%	-1.3%
14-03-2016	INR	WPI Inflation	-0.87%	-0.90%
15-03-2016	JPY	BoJ Press Conference	-	-
16-03-2016	USD	Core CPI	-	-
17-03-2016	GBP	Monetary Policy Summary	-	-
22-03-2016	EUR	German Zew Economic Sentiment	-	-

**CBEC Notified Exchange Rate for Conversion of Foreign Currency w. e. f, 19th February, 2016 [Notification No.29 /2016-Customs (N.T) Dated 18th February 2016]**

**SCHEDULE - I**

S.No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(For Imported Goods)	(For Export Goods)
1	Australian Dollar	49.65	48.40
2	Bahrain Dinar	186.90	176.20
3	Canadian Dollar	50.60	49.55
4	Danish Kroner	10.35	10.05
5	EURO	77.05	75.20
6	Hong Kong Dollar	8.85	8.70
7	Kuwait Dinar	235.15	222.45
8	New Zealand Dollar	46.20	45.00
9	Norwegian Kroner	8.10	7.90
10	Pound Sterling	98.95	96.75
11	Singapore Dollar	49.25	48.25
12	South African Rand	4.55	4.30
13	Saudi Arabian Riyal	18.75	17.75
14	Swedish Kroner	8.15	7.95
15	Swiss Franc	69.80	68.05
16	UAE Dirham	19.15	18.10
17	US Dollar	68.95	67.90
18	Chinese Yuan	10.60	10.40

**SCHEDULE-II**

S.No.	Foreign Currency	Rate of exchange of 100 units of foreign currency equivalent to Indian rupees	
		(For Imported Goods)	(For Export Goods)
1	Japanese Yen	60.70	59.35
2	Kenya Shilling	69.15	65.35



## COST SHARING – IS IT SERVICE

By **CMA Ashok B. Nawal**

Contact: +91 9890165001 • Email: nawal@bizsolindia.com

Finance Act 1994 (amended every year) provides the provisions relating to service tax. It is always the debatable issue as to such type of cost sharing arrangement between Group Companies is the service. If yes, whether it falls under:

- (a) Management OR Business Consultant Services OR
- (b) Business Auxiliary Service OR
- (c) Support Service of Business or Commerce OR
- (d) Manpower Recruitment & Supply Service OR
- (e) None of the above.

Prior to introduction of negative list of services, there was no definition of service but number of services were defined and such definitions has been reintroduced even in the era of negative list and therefore let us understand definition of above services.

Services is defined under section 65B (44) as:

"Service" means any activity carried out by a person for another for consideration, and includes a declared service, but shall not include:

- (a) an activity which constitutes merely,--
  - (i) a transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or
  - (ii) a transaction in money or actionable claim;
- (b) a provision of service by an employee to the employer in the course of or in relation to his employment;
- (c) fees taken in any Court or tribunal established under any law for the time being in force.

**Explanation 1.** - For the removal of doubts, it is hereby declared that nothing contained in this clause shall apply to,--

(A) the functions performed by the Members of Parliament, Members of State Legislative, Members of Panchayats, Members of Municipalities and Members of other local authorities who receive any

consideration in performing the functions of that office as such member; or (B) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or

(C) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or State Governments or local authority and who is not deemed as an employee before the commencement of this section.

**Explanation 2.--** For the purposes of this Chapter,

- (a) an unincorporated association or a body of persons, as the case may be, and a member thereof shall be treated as distinct persons;
- (b) an establishment of a person in the taxable territory and any of his other establishment in a non-taxable territory shall be treated as establishments of distinct persons.

**Explanation 3.-** A person carrying on a business through a branch or agency or representational office in any territory shall be treated as having an establishment in that territory;

- Management Business Consultant has been defined under section 65(65)
- Management OR Business Consultant" means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organization or business in any manner and includes any person who renders any advice, consultancy or technical assistance, in relation to financial management, human resources management, marketing management, production management, logistics management, procurement and management of information technology resources or other similar areas of management;
- Business Auxiliary Service has been defined under Section 65(19)

- business auxiliary service" means any service in relation to, -
  - (i) promotion or marketing or sale of goods produced or provided by or belonging to the client; or
  - (ii) promotion or marketing of service provided by the client; or
  - (iii) any customer care service provided on behalf of the client; or
  - (iv) procurement of goods or services, which are inputs for the client; or
- (iii) guarantees for collection or payment for such goods or services; or
- (iv) undertakes any activities relating to such sale or purchase of such goods or services;
- Support Services of Business or Commerce has been defined under Section 65 (104c):

"Support Services of Business or Commerce" means services provided in relation to business or commerce and includes evaluation of prospective customers, telemarketing, processing of purchase orders and fulfilment services, information and tracking of delivery schedules, managing distribution and logistics, customer relationship management services, accounting and processing of transactions, Operational or administrative assistance in any manner, formulation of customer service and pricing policies, infrastructural support services and other transaction processing.

**Explanation**

For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, "inputs" means all goods or services intended for use by the client;]

- (v) production or processing of goods for, or on behalf of the client; or
- (vi) provision of service on behalf of the client; or
- (vii) a service incidental or auxiliary to any activity specified in sub-clauses (i) to (vi), such as billing, issue or collection or recovery of cheques, payments, maintenance of accounts and remittance, inventory management, evaluation or development of prospective customer or vendor, public relation services, management or supervision, and includes services as a commission agent, but does not include any activity that amounts to "manufacture" of excisable goods.

Explanation. For the removal of doubts, it is hereby declared that for the purposes of this clause, -

- (a) "commission agent" means any person who acts on behalf of another person and causes sale or purchase of goods, or provision or receipt of services, for a consideration, and includes any person who, while acting on behalf of another person -
  - (i) deals with goods or services or documents of title to such goods or services; or
  - (ii) collects payment of sale price of such goods or services; or

**Explanation** - For the purposes of this clause, the expression "infrastructural support services" includes providing office along with office utilities, lounge, reception with competent personnel to handle messages, secretarial services, internet and telecom facilities, pantry and security;]

- Manpower Recruitment & Supply Service has been defined under Section (65) (68):
- Manpower Recruitment or Supply Agency" means any person engaged in providing any service, directly or indirectly, in any manner for recruitment or supply of manpower, temporarily or otherwise, to any other person

Generally Group Companies have common expenses on manpower, infrastructure, Administrative Support, etc. and share the cost based on the Cost Sharing Agreement and disputes are raised on applicability of service tax, since those shared cost either falls under any of the above categories considering the definitions of "Individual Service" except for "Management Consultancy", since each of the company of the group Company is the separate legal entity (i.e. person).

Though it falls under the definition of "Individual Services" it needs to study, whether it falls under

the definition of "Service". Any activity carried by one person for another (includes the one of the Group Company shared the cost for another) for consideration will cover under the definition of service and therefore it is important to understand the definition of consideration.

"Consideration" is first time defined in the Finance Act on 18.04.2006 Section 67(4) by way of inserting explanation as:

67. Valuation of taxable services for charging Service tax-

- (1) Subject to the provisions of this Chapter, service tax chargeable on any taxable service with reference to its value shall,-
  - (i) in a case where the provision of service is for a consideration in money, be the gross amount charged by the service provider for such service provided or to be provided by him;
  - (ii) in a case where the provision of service is for a consideration not wholly or partly consisting of money, be such amount in money, with the addition of service tax charged, is equivalent to the consideration;
  - (iii) in a case where the provision of service is for a consideration which is not ascertainable, be the amount as may be determined in the prescribed manner.
- (2) Where the gross amount charged by a service provider, for the service provided or to be provided is inclusive of service tax payable, the value of such taxable service shall be such amount as, with the addition of tax payable, is equal to the gross amount charged.
- (3) The gross amount charged for the taxable service shall include any amount received towards the taxable service before, during or after provision of such service.
- (4) Subject to the provisions of sub-sections (1),(2) and (3), the value shall be determined in such manner as may be prescribed.

**Explanation.**-For the purposes of this section,-

- (a) "consideration" includes any amount that is payable for the taxable services provided or to be provided;

- (c) "gross amount charged" includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and book adjustment, and any amount credited or debited, as the case may be, to any account, whether called "Suspense account" or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise.

Definition of "Consideration" includes any form of payment by way of credit note / debit note of book adjustment and therefore all above transactions between the group companies albeit on Cost Sharing basis may also fall under the definition of "Service" and classification will be based on nature of expenses shared between them.

In view of the above, it is important to understand the judicial decisions :

- PALM GROVE BEACH HOTELS PVT. LTD. Versus COMMISSIONER OF C. EX., MUMBAI [2015 (38) S.T.R. 872 (Tri. - Mumbai)]

Manpower services provided by assessee on cost sharing basis to its group companies by employing various professionals like accountant, engineers, etc. - Whether taxable under business auxiliary service - In similar facts and circumstances of case in another group company of appellant wherein similar services were given to other group companies, the Commissioner appropriated the amount of Service Tax paid by appellant under business Support Service whereas he classified the service under Business Auxiliary Service without giving findings on such classification - Tribunal remanded the matter to Commissioner for decision on issue of classification as per the principles of classification in terms of sub-clauses of Clause (105) of Section 65 of Finance Act, 1994 - HELD : In view of similar facts and circumstances of activity/service in this appeal, matter remanded to Commissioner to pass a reasoned order. [paras 3, 4]

- GLAXO SMITHKLINE PHARMACEUTICALS LTD. Versus COMMR. OF S.T., MUMBAI-I [2014 (36) S.T.R. 349 (Tri. - Mumbai)]

Management Consultancy Service - Joint carrying out of day to day functions of business by Glaxo India and Burroughs Wellcome India Ltd. as per agreement of merger between them, construed by Department as 'Management Consultancy service' provided by Glaxo India - HELD : Nothing in said agreement relates or refers to management consultancy service - Terms and conditions relating to rendering of executory services and sharing of cost proportionately for same in said agreement - No evidence produced by department of rendering of any consultancy in field of management by Glaxo - Decision of Tribunal in appellant's own case [2006 (3) S.T.R. 711 (Tri.)], in identical matter, holding said services not classifiable under 'Management Consultancy Service', squarely applicable to present case also - Impugned order set aside - Section 73 of Finance Act, 1994. [paras 5.1, 5.2]

- MAHINDRA & MAHINDRA CONTECH LTD. Versus COMMR. OF S.T., MUMBAI-I [2014 (35) S.T.R. 634 (Tri. - Mumbai)]

Management Consultant service - Deputation of personnel such as executives, secretaries, receptionists, etc., to group companies - Recovery of 15% of wages/salaries as service charges - HELD : Collection of charges on account of deputation of staff - In view of Glaxo Smithkline Pharmaceuticals Ltd. [2006 (3) S.T.R. 711 (Tribunal)] and Daurala Organics [2009 (14) S.T.R. 620 (Tribunal)] services not classifiable under 'Management Consultant service' - In light of Sterlite Optical Technologies Ltd. [2009 (13) S.T.R. 582 (Tribunal)] and Carborandum Universal Ltd. [2010 (18) S.T.R. 473 (Tribunal)] impugned activities covered under 'Manpower Supply Agency Service'. [paras 5.1, 5.2, 5.3]

Demand - Manpower Supply Agency service - Period involved prior to introduction of levy on 'Manpower Supply Agency service' - Demand raised unsustainable in law - Section 73 of Finance Act, 1994. [para 6]

- DAURALA ORGANICS Versus COMMISSIONER OF CENTRAL EXCISE, MEERUT [2009 (14) S.T.R. 620 (Tri. - Del.)]

Management Consultant service - Deputing staff to group company - Staff deputed to group company and engaged in day to day activities - Personnel paid by assessee and amounts representing salary and allowances recovered - Management Consultant is one engaged in providing service relating to conceptualising, devising, development, modification, rectification or upgradation of any working system of organisation - Submission that activity to be considered as supply of manpower which taxable w.e.f. 16-6-2005 whereas present demand is for earlier period - Facts similar to earlier decided case law in favour of assessee - Activity not falling under Management Consultant service - Section 65(65) of Finance Act, 1994. [paras 6.2, 6.3]

- K. RAHEJA REAL ESTATE SERVICES PVT. LTD. Versus COMMR. OF C. EX., MUMBAI [2015 (39) S.T.R. 867 (Tri. - Mumbai)]

Stay/Dispensation of pre-deposit - Business Auxiliary Services - Recruiting staff for the group companies and supplying them to the group companies to deal with the activities undertaken by group companies - Such an activity does not, prima facie, come under the purview of Business Auxiliary Services as defined under Section 65(90) of Finance Act, 1994 - Prima facie case made out for grant of stay - Unconditional waiver from pre-deposit of dues adjudged against appellant granted and recovery thereof stayed - Section 35F of Central Excise Act, 1944 as applicable to Service Tax vide Section 83 of Finance Act, 1994. [paras 5.1, 6]

- Continental Drugs Company Pvt. Ltd. v. Commissioner - [2015 (39) S.T.R. J368 (Bom.)]

The Bombay High Court Bench comprising Hon'ble Mr. Justice S.C. Dharmadhikari and Hon'ble Mr. Justice G.S. Kulkarni on 27-7-2015 admitted the Central Excise Appeal No. 194 of 2014 filed by Continental Drugs Company Pvt. Ltd. against the CESTAT Final Order No. A/5/2014-WZB/C-1(CSTB), dated 11-12-2013 as reported in 2015 (39) S.T.R. 154 (Tri.-Mumbai) (Continental Drugs Company Pvt. Ltd. v. Commissioner). While admitting the appeal, the High Court passed the following order :

"1. Having heard both sides, we find that the appeal raises a substantial question of law. It is admitted on the following substantial questions of law :

- (1) Whether the Hon'ble Tribunal, in the facts of the present case, was justified in holding that Appellant was providing "Security agency services" to its group companies?
- (2) Whether the Hon'ble Tribunal, in the facts of the present case, was justified in holding that Appellant is "commercial concern" having regard to the fact that the activity undertaken by the Appellant was on a no profit basis?
- (3) Whether in the facts and circumstances of the case, the Hon'ble Tribunal was right in sustaining the demand for extended period holding that the Appellant had suppressed the facts with intent to evade Service Tax?

2. "Respondents waive service."

The Appellate Tribunal in its impugned order had held that assessee rendered security services to various group companies for which they received consideration showing it as business income in their balance sheet and group entities which made payments to assessee's firm had claimed these as expenditure, thereby enjoying the benefit of income tax by reducing their profits. Claim of assessee that he was operating on no profit basis was not accepted and it was held that Service Tax was payable by him.

On limitation, it was held that bona fide belief is not blind belief but has to be based on reasonable measures taken to entertain such belief. Since assessee had not taken registration or followed statutory procedures, they had suppressed the facts and accordingly extended period of limitation was invocable in demand.

- COMMR. OF CENTRAL EXCISE Versus COMPUTER SCIENCES CORPN. INDIA P. LTD. [2015 (37) S.T.R. 62 (All.)]

Manpower recruitment or supply agency - Section 65(105)(k) of Finance Act, 1994 - Service which is provided or to be provided, must be by a manpower recruitment or supply agency - Such a service has to be in relation to supply of manpower - Assessee obtained from its group

companies directly or by transfer of employees, the services of expatriate employees - Assessee paid salaries of employees in India, deducted tax and contributed to statutory social security benefits such as provident fund - Assessee was also required to remit contributions, which had to be paid towards social security and other benefits that were payable to the account of employees under laws of foreign jurisdiction - No basis whatsoever to hold that in such a transaction, a taxable service involving the recruitment or supply of manpower was provided by a manpower recruitment or supply agency - Unless the critical requirements of clause (k) of Section 65(105) ibid are fulfilled, element of taxability would not arise. [paras 8, 9]

- MAHINDRA & MAHINDRA CONTECH LTD. Versus COMMR. OF S.T., MUMBAI-I [2014 (35) S.T.R. 634 (Tri. - Mumbai)]

Management Consultant service - Deputation of personnel such as executives, secretaries, receptionists, etc., to group companies - Recovery of 15% of wages/salaries as service charges - HELD : Collection of charges on account of deputation of staff - In view of Glaxo Smithkline Pharmaceuticals Ltd. [2006 (3) S.T.R. 711 (Tribunal)] and Daurala Organics [2009 (14) S.T.R. 620 (Tribunal)] services not classifiable under 'Management Consultant service' - In light of Sterlite Optical Technologies Ltd. [2009 (13) S.T.R. 582 (Tribunal)] and Carborandum Universal Ltd. [2010 (18) S.T.R. 473 (Tribunal)] impugned activities covered under 'Manpower Supply Agency Service'. [paras 5.1, 5.2, 5.3]

Demand - Manpower Supply Agency service - Period involved prior to introduction of levy on 'Manpower Supply Agency service' - Demand raised unsustainable in law - Section 73 of Finance Act, 1994. [para 6]

- COMMISSIONER OF SERVICE TAX Versus ARVIND MILLS LTD. [2014 (35) S.T.R. 496 (Guj.)]

Manpower Recruitment or Supply Agency - Scope of - Deputation of some staff to subsidiaries/group companies for stipulated work or for limited period - All throughout direction/

control/supervision remained continuously with assessee, who were not in business of providing recruitment or supply of manpower - Actual cost incurred by assessee in terms of salary, remuneration and perquisites was only reimbursed by group companies - There was no element of profit or finance benefit - HELD : Subsidiary companies could not be said to be client of holding company - Deputation of employees was only for and in interest of company - There was no relation of agency and client - Employee deputed did not exclusively work under direction of supervision/control of subsidiary company, and all throughout they would be under continuous control and direction of assessee - Assessee could not be said to be a commercial concern engaged in providing specified services to a client - Hence, they were not liable to Service Tax under Sections 65(68) and 65(105)(k) of Finance Act, 1994. [paras 5, 6]

- COMPUTER SCIENCES CORPN. INDIA PVT. LTD. Versus COMM. OF S.T., NOIDA [2014 (35) S.T.R. 94 (Tri. - Del.)]

Demand - Manpower Recruitment or Supply Agency Service - Overseas employees were either directly employed or transferred from other group companies - In addition to deductions from salaries towards provident fund and income tax, remittances made to group companies certain social security and other benefits payable under law of foreign jurisdiction - No amount over and above the remittances to seconded employees were paid to overseas group companies - HELD : Issue squarely covered by Volkswagen India Pvt. Ltd. [2014 (34) S.T.R. 135 (Tribunal)] - Tribunal in said case held that global employees working as employees and employee-employer relationship present - Section 73 of Finance Act, 1994 - Section 65(68) and 65(105)(k) *ibid.* [paras 2, 4]

- VOLKSWAGEN INDIA (PVT.) LTD. Versus COMMISSIONER OF C. EX., PUNE-I [2014 (34) S.T.R. 135 (Tri. - Mumbai)]

Manpower Recruitment or Supply Agency service

- Employment of foreign nationals, i.e., Global employees, previously employed with foreign/holding company - Payment of salaries through foreign/holding company - HELD : Global employees working as employees and employee-employer relationship present - No supply of manpower service rendered by foreign company - Method of disbursement of salaries not to determine nature of transaction - Orders-in-Original set aside - Sections 65(68) and 65(105)(k) of Finance Act, 1994. [2013 (29) S.T.R. 387 (Tribunal); 2013 (29) S.T.R. 317 (Tribunal) followed]. [paras 5.1, 5.2]

- GEICO PAINT SHOP INDIA P. LTD. Versus COMM. OF C. EX. & S.T., PUNE-III [2013 (32) S.T.R. 746 (Tri. - Mumbai)]

Stay/Dispensation of pre-deposit - Manpower Recruitment or Supply Agency service - Assessee entered into agreement with their holding company in Italy for secondment of personnel to assessee - Part of salary paid in Indian Currency and part paid through holding company - Department contended that transaction involved is of supply of labour by foreign entity to Indian entity and liable to Service Tax - HELD : Inter-company secondment agreement provided that International Assignees shall be at the disposal of assessee as their direct employee and will work under direct control of assessee and their salary would also be paid by assessee - Prima facie deputation of employees within group companies would not come within the purview of supply of labour service - Sections 65(68) and 65(105)(k) of Finance Act, 1994 - Section 35F of Central Excise Act, 1944 as applicable to Service Tax vide Section 83 of Finance Act, 1994. [paras 2, 5, 6]

There are different views in the judicial pronouncement but decision of Gujarat High Court & Allahabad High Court have reached to the finality and therefore such deputation of manpower will not fall under the definition of services. However other expenses needs to be considered on following basis

<b>Heads of Expenses</b>	<b>Nature / Basis of Cost Sharing</b>
Salary	Deputation
Rent	Based on area
Electricity	Actual meter reading
Capital Assets like AC, Furniture, Office Equipments	Not to be considered in Cost Sharing Agreement
Mobile	Based on deputed manpower
Landline	On receipt of bill (detailed bill) only mark abbreviation of companies and debit
Telegram	Actuals on reimbursement basis
Fax services	On receipt of bill (detailed bill) only mark abbreviation of companies and debit
Postage	Actuals on reimbursement basis
Courier	Actuals on reimbursement basis
Traveling Conveyance	Based on deputed manpower
Insurance Coverage	Based on area
Communication Expenses	Actuals on reimbursement basis
Data Card, Leased Line, Online Transmission System	Actuals on reimbursement basis
Legal & Professional Fees	Actuals on reimbursement basis
Advertisement Expenses	Actuals on reimbursement basis

In case, even the litigations needs to be totally avoided then it is advisable to follow the practice of actual payment by the company where the person is deputed to another group company and employed in another group company by way of agreement. There is no bar in any labour laws that salary and other statutory payments cannot be made by any other persons on behalf of employer.

It will not be out of place to appreciate the advance

ruling in the case of North American Coal Corporation India Pvt. Ltd., Pune Ruling No. AAR/ST/13/2015, Application No. AAR/44/ST/2/2014 dtd. 6th November, 2015, wherein it has been held that there shall be no liability to pay service tax on the salary and the allowances payable by the applicant to the employee in terms of the dual employment agreement and such salary will not be eligible to levy the service tax as per the provisions of the Finance Act.





# Beyond the Obvious

## Customs

- ❖ **Refund of Additional duty of customs (SAD) under Notification No 102/2007 Cus** - Refund of SAD paid on timber logs imported and sold as cut sizes on payment of VAT - Refund denied on the ground that the logs were sold as cut sizes and timber logs fall under CTH 44.03 whereas the goods sold after sawing and cutting would fall under Customs Tariff heading 44.07 as also clarified in CBEC Circular No 15/2010 Cus dated 29.06.2010. Held: The invoices show that some of the logs were sold as such whereas some logs were cut into sizes. The question is whether mere cutting and sawing of the goods for facilitating transportation would render the goods ineligible for refund of SAD has been considered and decided in favour of the importers by the Tribunal in the case of M/s. Agarwalla Timbers Pvt. Ltd. Vs. CC, Kandla & M/s. Variety Lumbers Pvt. Ltd. Vs. CC, Kandla and upheld by the Gujarat High Court. Though revenue filed an SLP before the Supreme Court, as there is no stay against the order passed by the High Court, the same is binding - Following the same, it is held that the appellants are eligible for refund - Appeals allowed. **[2016-TIOL-296-CESTAT-HYD]**
- ❖ **Refund of SAD in terms of Notfn 102/07-CUS** - It is alleged that there is mis-match between description of goods indicated in Bills of Entry and sales invoices issued by assessee - Commissioner (A) has categorically observed that conditions of said notfn have been duly complied with by assessee - Since, conditions laid down in said notfn and circulars for claiming refund have been duly complied with by assessee, mere change in description of goods in domestic invoice which may be due to various reasons, cannot be a defensible ground to deny benefit of refund to which assessee is legally entitled to - Impugned order set aside and appeal allowed. **[2016-TIOL-302-CESTAT-DEL]**

## Central Excise

- ❖ **Valuation of physician samples:** Valuation of physician samples given free of cost needs to be valued on the basis of cost of production or manufacture of goods i.e. Cost of production + 15% as profit margin and not on the basis of pro rata value of the sale pack of the said physician samples of medicines as alleged by department - appellant submits that they have already paid differential duty which fact is to be ascertained by lower authorities - Since the issue of valuation of physician samples was being litigated during the relevant period, there is no necessity to visit the appellant with any penalty - Appeal disposed of: **CESTAT. [2016-TIOL-299-CESTAT-MUM]**
- ❖ **Penalty imposed after issuance of OIO:** After issuance of Order-in-Original, Adjudicating authority became functus officio and therefore he could not have issued addendum which essentially imposed penalty at least not without notice to it - Penalty could not have been imposed in this fashion by issuance of an addendum almost one and half months after date of Order-in-Original without notice to assessee - Said addendum set aside: **CESTAT**

## Cenvat Credit

- ❖ **CENVAT credit of Insurance Services** - Rule 2(l) of CCR, 2004 - When the cost of any service is included to determine the valuation of the final product, CENVAT credit cannot be denied of such tax paid on the services - Revenue appeals rejected. **[2016-TIOL-322-CESTAT-MUM]**
- ❖ **Cenvat credit on basis of endorsed BOE** - Assessee procured inputs Additives from both indigenous & imported Sources - After payment of duty, BOE endorsed to IOCL who took Cenvat Credit on basis of said BOE - It is the case of Revenue that endorsed BOE was not a valid

- document for taking credit prior to 1/4/1994 as per documents prescribed under Rule - 57 G (3) of CER, 1944 - Endorsed BOE was a prescribed document up to 11/9/96 - There is no difference in BOE & endorsed BOE - Assessee have infact endorsed BOE on basis of which credit was taken - Credit on basis of endorsed BOE was correctly taken by assessee - So for as applicability of extended period is concerned, assessee were taking credit on basis of documents which were submitted to department for defacement - Extended period can not be invoked and no penalties are imposable upon assessee. **[2016-TIOL-297-CESTAT-KOL]**
- ❖ **ISD Registration** - On the ground that appellant's head office is not registered as Input Service Distributor (ISD) and so is not entitled to distribution of credit, credit of service tax paid by it on certain services availed by appellant at different places for the purpose of manufacture was denied - When the credit claimed on the services availed was not disputed nor even service tax paid is in dispute, so also the genuinity of the parties is not disbelieved and when there is no finding that service tax paid by head office was not connected to appellant's business, denial of credit of service tax suffered by appellant's head office is detrimental to the interest of justice - Registration is a regulatory measure to bring assessee to the fold of law - Even if unregistered, liability under law remains unchanged - Hence, denial of distribution of credit during unregistered period is anomaly to law when tax liability incurred is ordered to be paid - Period in dispute is from 1.1.2005 to 31.12.2008 and since prior to 1.4.2008, credit on GTA services is admissible as per law, appellant is entitled to the credit, in so far as distribution of service tax credit prior to 1.4.2008 is concerned - In respect of the period from 1.4.2008 till 31.12.2008, since law has denied credit on GTA services w.e.f 1.4.2008, appellant's claim of reversal of credit on GTA services for that period needs verification by the authority who shall verify the same for appropriate conclusion - Appeal disposed of. **[2016-TIOL-318-CESTAT-MAD]**
  - ❖ **CENVAT Credit on Windmills** - Facts that generation of power by assesseees using windmills was to share the same with Electricity Board to avail the same quantum of power at the place of manufacture on barter system and for that purpose installation of windmill and maintenance thereof is required are not disputable - In view of the precedent which considered all the issues and held in favour of assesseees that such credit on inputs or input services used by windmills for such purpose is admissible and as the finding of facts in the case not being dissimilar, Revenue's appeals are dismissed. **[2016-TIOL-320-CESTAT-MAD]**
  - ❖ **Supplies to SEZ applicability of Rule 6 of Cenvat Credit Rules, 2004:** Short question whether supplies made to SEZ Developer for the period prior to 31.12.2008 will attract the provisions of Rule 6(6) of the Cenvat Credit Rules or not, or whether the appellant is liable to pay 10% of the value of the goods supplied to SEZ Developer in case no separate accounts have been maintained in respect of dutiable goods and goods supplied without payment of duty has been settled by the Tribunal in the case of Sujana Metal Products - 2009-TIOL-1096-CESTAT-BANG holding that amendment to rule 6(6)(i) of CCR, 2004 by notification 50/2008-CE(NT) dated 31.12.2008 shall be applicable w.e.f 10/09/2004 when the CCR came into existence and, therefore, exception provided under rule 6(6) shall be applicable to supply of exempted goods both to SEZ units and SEZ developers/promoters - no cause for payment of amount @10% in terms of Rule 6(3)(b) of CCR, 2004 - Order set aside & Appeal allowed with consequential relief: CESTAT. **[2016-TIOL-329-CESTAT-MUM]**
  - ❖ **SuoMotu credit:** Department was supposed to grant refund by implementing the order of the Tribunal, however, appellant took suomotu credit - There is no provision in law to take suomotu credit of any amount paid during litigation and the proper course of action was to seek refund u/s 11B of CEA, 1944 - however, in the present case, the refund claim was already filed with department and it was not processed - there is no dispute that appellant is entitled for refund

along with consequential relief - Appellant directed to reverse the CENVAT credit taken suomotu and adjudicating authority is directed to sanction the refund claim in accordance with law - penalties and interest dropped as it is a case of revenue neutrality - due to peculiar facts of the case, since appellant had taken and enjoyed the credit, they are not entitled for interest for the period i.e from taking suomotu credit till sanction of refund claim - Appeals disposed of: CESTAT [para 6] - Appeals disposed of : MUMBAI CESTAT. **[2016-TIOL-341-CESTAT-MUM]**

- ❖ **Appellant availing CENVAT credit in respect of Service Tax paid on services received from CHA in respect of export of consignment** - Revenue denying credit on the ground that the said services were availed beyond the place of removal and are not covered under the definition of Input services. Held: Issue is settled in view of Circular no. 999/6/2015-CX dated 28.02.2015 issued by CBEC wherein it is clarified that transfer of property can be said to have taken place at the port where the shipping bill is filed by the manufacturer and the place of removal would be the Port/ICD/CFS - in view of clear cut clarification, demand of reversal of CENVAT credit taken in respect of CHA services utilized for export of goods cannot be sustained - Appeal allowed: CESTAT [para 4] - Appeal allowed. **[2016-TIOL-340-CESTAT-MUM]**
- ❖ **Cenvat Credit on Travel Agent Services:** Travel Agent services availed by technical & accounting personnel of appellant to visit job workers premises for upkeep and maintenance of plant and machinery installed by them is an Input service: CESTAT. **[2016-TIOL-346-CESTAT-MUM]**

## Service Tax

- ❖ **Renting of Immovable Property by Municipality** - Appellant-Municipal Corporation has rented immovable properties owned by it for commercial purposes for establishment of markets, shopping complexes etc. - Demand for service tax raised along with interest under 'Renting of immovable property' - In all similar cases of other municipalities, Tribunal had ordered pre-deposit and municipalities have complied - Precedent decision of High Court also has upheld the pre-deposit order of Tribunal in a similar case and is squarely applicable to the case as appellant is a Municipal Corporation and has rented out commercial properties - Hence, appellant has no prima facie case - In view of the precedent order which directed assessee to make the pre-deposit in six equal monthly installments, appellant is directed to make pre-deposit of Rs. 30 lakhs in six equal monthly installments. **[2016-TIOL-294-CESTAT-MAD]**

## Income Tax

- ❖ The profits and gains derived from on site development of computer software including services for the development of such software outside India is deemed to be the profits and gains derived from the export of computer software outside India. Whether in order to compute deduction u/s 10A, the term total turnover includes export turnover also, as the purpose of section 10A is to bring more foreign exchange and to encourage export - YES: HC. **[2016-TIOL-168-HC-KAR-IT]**
- ❖ The overloading charges can be allowed as expenditure deductible u/s 37 of the Act. The subsistence allowance is Revenue in nature whose liability arose once the land has been acquired. **[2016-TIOL-193-HC-MUM-IT]**



## OUR SERVICES

**Bizsolindia provides consultancy in the following areas through associate companies and professional firms of the Directors**

<b>Bizsolindia Services Private Limited</b>	Consultancy & Audit in the area of <ul style="list-style-type: none"><li>• Strategic Management Consultancy</li><li>• Direct Taxation including Domestic and International Transfer Pricing</li><li>• Indirect Taxation(Customs, Central Excise, Service Tax, VAT/ CST, LBT)</li><li>• FEMA</li><li>• Foreign Trade Policy (Export Promotional Schemes, EPCG, Advance Authorization, DFIA, Duty Drawback, Brand Rate Fixation)</li><li>• EOU / EHTP / STP /BTP</li><li>• SEZ</li><li>• Project Consultancy (Industrial Parks, Clusters , Agro Economic Zone, Food Park, etc)</li><li>• New Business Set up in India</li><li>• Valuation including Business Valuation</li><li>• Internal Audit</li><li>• Corporate Law &amp; Procedures</li></ul>
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<b>Bizsol Projects &amp; Infrastructure Solutions LLP</b>	Infrastructure Consultancy, Project Management Services in respect of Real Estate solution for Industrial, Residential, Trade & Commerce & Consultancy related to Finance & Investments



## State Level Students Convention



CMA Ashok Nawal, Vice Chairman, Bizsolindia during State Level Students Convention on 8th February 2016 at Vijayawada Chapter.



CMA Ashok Nawal, Vice Chairman, Bizsolindia addressing at three Days Refreshers Course on Indirect Taxation & Gearing for GST at Chennai on 7th February, 2016



Students at the Vijayawada Chapter - State Level Students Convention on 08 Feb. 2016

## Bizsol Budget Seminar 2016-17



Attendees at the Budget Seminar of Bizsolindia Services Private Limited arranged on 1st March 2016.



CMA Ashok Nawal, Vice Chairman, Bizsolindia addressing participants during the seminar on Budget 2016-17 arranged by Bizsolindia Services Private Limited on 1st March 2016.



CA Manoj Behede, MD, Bizsolindia addressing participants during the seminar on Budget 2016-17 arranged by Bizsolindia Services Private Limited on 1st March 2016.



Mr. Pravin Arote, Vice President (CS Division), Bizsolindia addressing participants during the seminar on Budget 2016-17 arranged by Bizsolindia Services Private Limited on 1st March 2016.



CA Preeti Kulkarni, GM Operations, Bizsolindia addressing participants during the seminar on Budget 2016-17 arranged by Bizsolindia Services Private Limited on 1st March 2016.



CA Manoj Malpani, GM Stategy, Bizsolindia addressing participants during the seminar on Budget 2016-17 arranged by Bizsolindia Services Private Limited on 1st March 2016.



CMA Nanda Barde, Assistant Manager, Audit and Taxation, Bizsolindia addressing participants during the seminar on Budget 2016-17 arranged by Bizsolindia Services Private Limited on 1st March 2016.

**Bizsolindia Services Pvt. Ltd.**

CIN : U74999PN2004PTC019256  
14 -17, Suyash Commercial Mall, Above Union Bank, Baner Road, Baner, Pune - 411 045. Tel.: +91 20 40702000/01 Fax:+91 20 40702002. corporate@bizsolindia.com, www.bizsolindia.com

Nashik: +91 253 6633111, Mumbai: +91 22 3028 4141, Daman: +91 9909025831, Aurangabad: +91 240 6602015, Indore: +91 731 4089442

We welcome your valuable feedback on this issue at editor@bizsolindia.com

<b>Core Team:</b>	<b>Chief Editor:</b>	<b>Editorial Team:</b>
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