

GOVERNMENT OF INDIA
MINISTRY OF FINANCE & COMPANY AFFAIRS
DEPARTMENT OF REVENUE

Gautam Ray
Joint Secretary (TRU)
Tel : 23092687
Fax : 23092031

D.O.F.No.334/1/2003-TRU
New Delhi, dated the 28th February, 2003.

Dear Commissioner,

The Finance Minister has introduced the Finance Bill, 2003 in the Lok Sabha on 28th February, 2003. Changes in excise, customs and service tax have been made through the Finance Bill [clause 97 to 152 and 158 to 161] and through notifications. Details of changes are given in Explanatory Notes. The salient features of the proposals in respect of excise and customs duties are indicated below:

(I) Central Excise

1 Rate Structure:

The general duty structure is proposed at 8%, 16% and 24%. Tobacco products, pan masala and petroleum products will continue to have different rates. For textiles, a separate package has been prescribed.

1.1 The special excise duty (SED) on following items has been reduced from 16% to 8%:

- 1) Tyres
- 2) Aerated soft drinks
- 3) Polyester Filament Yarns
- 4) Air Conditioners and components
- 5) Motor Cars

The duty incidence on all these items will be 24% (16% Cenvat + 8% SED) as against 32% earlier.

1.2 The 4% rate of excise duty without Cenvat has been abolished. Some of the items attracting this rate have been exempted from excise duty and rest have been taken to 8% rate. The 8% rate will now be with Cenvat credit. As a consequence, the following items have been exempted from excise duty:

- 1) Bicycle and parts
- 2) Toys
- 3) Mosaic tiles
- 4) Utensils and kitchen articles of metals
- 5) Knives, spoons and similar items of kitchenware/tableware
- 6) Unbranded surgical bandages
- 7) Articles of wood
- 8) Imitation zari
- 9) Adhesive tape
- 10) Tubular knitted gas mantle fabric for use in incandescent gas mantles
- 11) Umbrellas
- 12) Walking sticks, riding-crops and like
- 13) Articles of mica
- 14) Kerosene pressure lanterns
- 15) Glasses for corrective spectacle lenses, flint buttons
- 16) Registers, accounts books, etc.

In addition, the following goods have also been exempted from excise duty:

- ? Recorded audio CDs
- ? Slag arising in the manufacture of iron and steel
- ? Gold arising in the course of copper/zinc smelting

1.3 The following items, which were earlier liable to duty at 4% without Cenvat or 16% with Cenvat, would now attract 8% excise duty with Cenvat credit:

- 1) Light weight concrete building blocks. The 8% rate is being extended to aerated and cellular light weight concrete blocks and slabs
- 2) Laboratory glassware
- 3) Crankshafts for sewing machines
- 4) Power driven pumps for handling water
- 5) Medical equipments
- 6) Pre fabricated buildings

1.4 **Excise duty has been reduced from 16% to 8% with full Cenvat on the following items:**

- 1) Pressure cookers
- 2) Biscuits
- 3) Sugar confectionery (excluding white chocolate) not containing cocoa
- 4) Rough ophthalmic blanks
- 5) Dental chairs
- 6) Electric vehicles
- 7) Scented supari
- 8) Nicotin Polacrilex gum

[Note: Items attracting excise duty presently at 8% without Cenvat will attract duty at 8% with Cenvat]

1.5 **New impositions**

Excise duty at the rate of 8% with Cenvat credit has been imposed on the following items:

- 1) Refined edible oils (branded and packed for retail sale) *
- 2) Vanaspati, bakery shortening, margarine and other similar edible preparations (branded and packed for retail sale) *
- 3) Lay flat tubing
- 4) Chemical reagents for specified end use
- 5) Wood free particles or fibre board made from agrowaste
- 6) Paper and paper board manufactured from at least 75% non-conventional raw materials (for the first clearances of 3500 MT per year) which were attracting Nil duty till now
- 7) Populated printed circuit boards for black and white televisions

* In respect of these products, labelling or relabelling of containers and repacking or adoption of any treatment to render the goods marketable will amount to manufacture.

- 1) Excise duty exemption on animal driven vehicle tyres has been withdrawn. Such tyres will attract duty at 24%.
- 2) Coating of pipes and tubes of headings 73.04 or 73.05, with cement or polyethylene or other plastic materials has been declared as amounting to manufacture.
- 3) The facility given to integrated steel manufacturers to pay excise duty on the factory gate price, even when their goods are sold from their depots is being withdrawn. The integrated steel manufacturers will pay excise duty on the normal transaction value at depots.
- 4) For starches falling under heading 11.03, labeling, re-labeling of containers and packing from bulk to retail packs or adoption of any other treatment to render the product marketable to the consumers has been declared as amounting to manufacture.
- 5) Excise duty on chassis of motor vehicles has been increased from 16% to 16% plus Rs.10,000/- per chassis.

1.6 **Cement**

Excise duty on cement has been increased from Rs.350/- per metric tonne to Rs.400/- per metric tonne. Excise duty on cement cleared in bulk has been increased from Rs.332 per metric tonne to Rs.382 per metric tonne. Excise duty on cement clinkers and on cement made by mini cement plants has been increased from Rs.200/- to Rs.250/- per metric tonne.

2. Textiles

2.1 Major changes have been proposed in the duty structure applicable for textiles so as to remove a large number of exemptions, withdraw deemed credit scheme and to complete Cenvat chain right from fibre/yarn to the garment stage. In brief, the following are the important changes:

(a) Yarns:

- 1) 8% excise duty is being retained only for cotton yarn, not containing any other textile material.
- 2) 16% excise duty on fibres of polyester, viscose, acrylic remain unchanged.
- 3) Uniform rate of 12% excise duty has been prescribed on polyester cotton, cotton viscose and all other spun yarns. Viscose cotton yarn will attract duty at 12% even if cotton predominates.
- 4) Excise duty on polyester filament yarn has been reduced from 32% to 24%.
- 5) Excise duty on all other filament yarns (such as viscose filament yarn, nylon filament yarn) has been reduced from 16% to 12%.
- 6) SSI exemption benefit has been withdrawn for shoddy and woollen yarn. This change will come into effect from 1.4.2003.

(b) Fabrics:

- 1) Excise duty on all woven cotton, manmade and woollen fabrics has been reduced from 12% to 10%;
- 2) Duty on knitted/crocheted fabrics of cotton has been reduced from 12% to 8%;
- 3) Duty on non-cotton knitted/crocheted fabrics has been reduced from 12% to 10%;
- 4) All industrial fabrics including rubberized textile fabrics presently attracting duty rates of Nil, 21%, 16% and 16% plus specific rates will be charged to duty at 16%;
- 5) Optional exemption on woven, crocheted or knitted fabrics is being withdrawn with effect from 1.4.2003;
- 6) Deemed credit scheme under which credit can be taken without production of duty paying documents is being withdrawn with effect from 1.4.2003;
- 7) The system of compounded levy on embroidered fabrics (at present charged at Rs.45 per meter length of machine per shift) has been replaced by an *ad valorem* duty of 10%. This change would come into effect from 1.4.2003;
- 8) Fabrics and garments manufactured by non-profit charitable institutions have been exempted from excise duty.

(c) Garments and other made up articles:

- 1) Excise duty on all woven (including cotton) garments and made ups has been reduced from 12% to 10%.
- 2) Duty on cotton knitted/crocheted garments is being reduced to 8%, while on other knitted/crocheted garments, duty has been reduced to 10%.
- 3) The duty on knitted and crocheted articles has been reduced from 16% to 10%.
- 4) The following exemptions have been withdrawn. These changes will come into effect from 1.4.2003:
 - (a) Textile articles made from handloom fabrics (SSI exemption would be available).
 - (b) SSI exemption on ready made garments.
 - (c) Blanket of wool and shoddy yarn below certain price.

The above list is not exhaustive. For full details, the Explanatory notes, clauses of Finance Bill and the notifications may be referred to.

2.2 While changes in the rates of excise duty in respect of textiles (except where the present duty is nil) will come into effect immediately w.e.f. 1.3.2003, the withdrawal of exemptions, removal of scheme of deemed credit and removal of goods from SSI exemption scheme will come into force w.e.f. 1.4.2003. The Government have also decided that job work facility will be made available to the textile sector and a separate procedure would be devised to ensure that the large number of powerlooms in the decentralized sector are not inconvenienced in any way and are exempted from maintenance of central excise records. The duty liability will be on the supplier of the raw materials to the job workers. The Government is very keen to see to it that there is absolutely no harassment to the manufacturers coming into excise net for the first time. Chief Commissioners and Commissioners are requested to meet all those sectors of the trade who would be liable to pay excise duty w.e.f. 1.4.2003 and get their views and suggestions as how best to implement the provisions. Board desires that you should send a report positively by 10.3.2003 after consultation with the trade so that a suitable procedure convenient to all can be prescribed.

3. **National Calamity Contingent Duty (NCCD)**

For replenishment of the National Calamity Contingent Fund, duty on following items has been imposed.

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

This increase has been made by amending the 7th Schedule of the Finance Act, 2001 through clause 126(1) and 161(1) of the Finance Bill. As a result, in addition to the goods already covered under the NCCD levy, these items will also be liable to pay this levy. This levy will apply to imports also. This levy on the additional items will be valid for one year (upto 29.2.2004).

4. **AED (Sales Tax) Act, 1957**

To enable the States to levy sales tax on sugar, textiles and tobacco products at a rate not exceeding 4% without being denied the 1.5% of total tax revenue, suitable amendments have been made in the above Act. This will come into effect from a date to be notified later [Clause 148 of Finance Bill].

Cenvat Credit Rules, 2002 have been amended to allow credit of AED (GSI) paid for payment of Cenvat duty and special excise duty.

5. **Petroleum Products**

- ✍ The Additional Excise Duty on motor spirit (petrol) and high speed diesel oil has been increased from Rs.1 per litre to Rs.1.50 per litre [clause 159 & 160 of the Finance Bill].
- ✍ Excise duty on light diesel oil (LDO) has been increased by Rs.1.50 per litre [clause 147 (a) of the Finance Bill]. No Cenvat credit will be allowed in respect of the duty paid on LDO.
- ✍ Excise duty concessions on ethanol doped petrol etc., have been continued for one more year, upto 29.2.2004.

6. **Tea**

Tea has been exempted from excise duty of Rs. 1 per Kg. In its place, an additional duty of excise of Re. 1 per Kg. by way of surcharge, for development of tea plantation sector, has been introduced. This will apply to imports also [clause 121(1) and 149(1) of the Finance Bill].

7. **Health**

Drugs and life saving equipments which are exempt from CVD (additional duty of customs) are being exempted from excise duty.

Drug intermediates used captively in the factory of production has been exempted from excise duty.

8. **Small Scale Industries Exemption Scheme**

8.1 With effect from 1.4.2003, SSI exemption will be withdrawn on –

- (a) Ceramic tiles. Printed ceramic tiles made from duty paid tiles outside the factory will, however, be exempt from excise duty.
- (b) Stainless steel patties/pattas.
- (c) Woollen yarn, shoddy yarn.

8.2 Value of exempted goods (excluding exports) will be included for calculating the limit of Rs. 3 crores for eligibility under SSI exemption with effect from 1.4.2003.

9. **Medicinal & Toilet Preparations**

Changes have been made in respect of duty structure applicable to medicines and toilet preparations containing alcohol under the M&TP Act, 1955. These are given below:

- 1) The amendment to M&TP Act, 1955 carried out vide Finance Act, 2000 will now come into force w.e.f. 1st March, 2003.
- 2) Duty on toilet preparations containing alcohol or narcotic substances has been reduced from 50% to 16%.

- 3) Duty on medicines containing alcohol or narcotic substances has been reduced from 20% or specific rates to 16%.
- 4) Full exemption on Ayurvedic/Unani/Indigenous medicines, containing self-generated alcohol and not capable of being consumed as alcoholic beverage, has been retained.
- 5) Toilet preparations containing alcohol or narcotic substances, will be assessed on maximum retail price (MRP) basis, with an abatement of 40% on the MRP.

As this levy pertains to the State Governments, it is requested that a copy of the relevant notification is given to the State Government so that duty at the new rates can be levied from 1.3.2003.

10. **Matches**

Matches made by the non-mechanized sector have been fully exempted from excise duty. Specific duty rates on matches manufactured in the mechanized and semi-mechanized sector, have been replaced by a uniform excise duty of 8% without CENVAT credit. Bengal lights will also now attract duty at 8%. Provision is being made in the Central Excise Rules for giving credit or refund of the central excise stamps available with the assessee, but not utilized.

11. **Retail Sale Price (RSP) based assessment:**

11.1 The RSP based assessment has been extended to pesticides, insecticides and chewing tobacco and preparation containing chewing tobacco. Sanitary ware and fixtures of ceramics have been excluded from the ambit of RSP based levy.

11.2 Rates of abatement on aerated water, air conditioners, biscuits, boiled sweets, sugar confectionery, scented supari and pressure cookers have been reduced by 5%, consequent to the reduction of excise duty on these items.

11.3 **Changes in definition of RSP**

- 1) The definition of retail sale price (RSP), as mentioned in Explanation I to section 4A of the Central Excise Act has been modified so as to extend it also to cases where the governing law on such goods permits declaration of retail sale prices exclusive of taxes.
- 2) Section 2 (f) of Central Excise Act is being amended to provide that for goods presently covered under the provisions of section 4A, any process of packing, re-packing, labeling or re-labeling of goods, putting them into unit containers or any subsequent declaration of RSP on goods or alteration thereof, shall amount to manufacture.
- 3) Provisions of section 4A of the Central Excise Act are being amended so as to-
 - a) provide that in case of affixing higher RSP subsequent to clearance of goods on payment of duty on a lower RSP, the excise duty would be leviable on the basis of such higher RSP affixed later on.
 - b) Assume powers to enable the government to ascertain the RSP of goods having no RSP declared or the declared RSP being tampered with, obliterated or altered; and
 - c) Assume powers to make rules for such ascertainment.

12. **Service Tax**

- 1) Rate of service tax is proposed to be raised from 5% to 8% (from the date of enactment of Finance Bill).
- 2) Service tax @ 8% is proposed to be imposed on the following services (to be effective from a date to be notified).
 - a) Commercial vocational institutes, coaching centers and private tutorials.
 - b) Technical testing and analysis (excluding health and diagnostic testing), technical certification.
 - c) Maintenance and repair services namely, Annual Maintenance Contracts (AMC) and other maintenance services; authorized repair services.
 - d) Commissioning and installation services.
 - e) Business promotion and support services including customer care services. These services include launching of products, customer education programmes, conduct of seminars, data warehousing, help desk services, managing front offices, enquiry bureaus, etc. However computer enabled services, namely, data processing, networking, back office processing, computer facility management shall not be subjected to Service Tax.

- f) Internet café
- g) Franchise services
- h) Extension of service tax on port services to minor ports.
- i) Extension of service tax on authorized automobile services to multi-utility vehicles.
- j) Extension of service tax on banking and other financial services to all FOREX brokers. Presently the services provided by banks and body corporates in relation to foreign exchange are covered under Service Tax. The proposal is to extend the same to proprietorship, partnership and other individual concerns providing such services.
- 3) The present exemption from service tax on hotels has been extended beyond 31.3.2003.
- 4) Exemption from service tax when payments are received in convertible foreign exchange has been withdrawn.
- 5) Provision has been made for allowing credit of service tax only when the payment has been made by the service user in respect of services provided.
- 6) Retrospective amendment to notification No.43/97-ST dated 5.11.1997 has been made so as to exempt service tax on services provided by Goods and Transport Operators to small scale units, traders and private limited trading companies for the period 16.11.2002 to 1.6.2002.

12.1 It may be recalled that with regard to payment of service tax in respect of Goods and Transport Operators (GTO) and C&F services, certain amendments were made in section 65 and 66 of the Finance Act, 1994 to validate the collection of service tax. Certain further amendments are being made in section 68 and 70 of the Finance Act, 1994 retrospectively along with insertion of a new section 71A for the period 16.7.1997 to 16.10.1998 [clause 150 of the Finance Bill]. Basically, this change will require the assessee (service receiver in respect of GTO and C&F services) to file a fresh return within 6 months from the date of enactment of Finance Bill which can then be assessed. This is a validating provision.

12.2 The Board vide its telexes F.No.No.356/91/97-TRU dated 3.2.97 and 9.2.98 had directed to hold in abeyance the payment of service tax on Goods Transport Operators in respect of factories registered as SSI industries in State Government, companies which are solely and exclusively trading companies registered as private limited companies, and dealers registered with any sales tax authority and whose turnover had exceeded Rs.50 lakhs in the preceding financial year. Exemption from payment of service tax for these categories is now being given a legal backing through suitable amendments in the provisions of Finance Act, 1994 [clause 152(1) of the Finance Bill].

12.3 Service tax will now cover a number of new assesses. It is imperative that the Commissioners apprise the potential assessee of the basic features of Service Tax Scheme, its procedures and obligations well in advance. It would be useful if some meetings with the assessee are also conducted in the Commissionerates to explain the features of Service Tax to them.

13. **Default in payment of duty**

Under the existing procedure, in certain cases of default in payment of duty assessed under rule 8(3) of the Central Excise Rules, the manufacturer is denied the benefit of utilization of Cenvat credit for certain period. This is being done away with, and even in cases of default, there will be no denial of the credit nor the facility of paying duty in monthly instalments be withdrawn. A system of automatic payment of interest at the rate of 2% per month or Rs.1,000 per day, whichever is higher, has been proposed starting from the date on which the duty was required to be paid till the date of payment (subject to the interest not exceeding the duty amount). Once the assessee pays the amount, there will be no need to issue SCN or pass an order. Provisions are also being made that in case of non-payment of the defaulted amount within a reasonable time, the goods in respect of which the payments are in default would be liable to confiscation and the amount in default may be recovered as if these are arrears of revenue.

14. **Monthly payment of duty**

14.1 From 1.4.2003, the fortnightly duty payment scheme will be replaced by monthly payment scheme. Duty for a month will have to be paid by 5th of the next month. However, for the month of March, the duty has to be paid by 31st March, both for SSI and non-SSI units.

14.2 It is also being provided that date of payment of cheque in the nominated banks will be the date of payment of duty, provided the cheque is honoured.

15. Valuation

15.1 The introduction of 'transaction value' has brought out significant improvements in reduction of disputes and bringing about certainty in the matter of valuation. There are, however, certain areas where disputes are still continuing. Having regard to this, section 4 of the Central Excise Act has been amended by providing an explanation so as to clarify that the total amount received by a manufacturer will be deemed to be the price-cum-duty and the assessable value should be determined accordingly subject to exclusion of sales tax or other taxes, if paid. Similar will be the position when additional considerations are received [clause 127 of the Bill]. The following illustrations will clarify the issue.

Illustration 1: An assessee A sells his excisable goods for Rs.120 per piece and does not charge any duty of excise in his invoice. Subsequently, it is found that such goods were not exempted from excise duty but were liable to pay duty at 20%. In this case, Rs.120 shall be treated as price-cum-duty and excise duty shall be calculated on the transaction value of Rs.120 with excise duty payable thereon being Rs.20.

Illustration 2 : Certain excisable goods was sold for Rs.120 and 20% is the rate of excise duty. In this case the transaction value for charging excise duty shall be calculated as follows:

$$\text{Value} = \frac{\text{Price-cum-duty}}{(1 + \frac{\text{Rate of excise duty}}{100})} = \text{Rs.100/-}$$

Subsequently, it was found that the price-cum-duty of the goods was in fact Rs.140/- as the assessee had collected Rs.20/- separately. Such additional consideration shall be deemed to include the excise duty payable on such goods. Accordingly, the revised value of such goods shall be calculated as follows:

$$\text{Value} = \frac{\text{Price-cum-duty} \quad (120 + 20)}{(1 + \frac{\text{Rate of excise duty}}{100})} = \frac{140}{1.2} = \text{Rs.116.67}$$

Illustration 3: Suppose the assessee has paid duty at 20% when price-cum-duty was Rs.120/-. Subsequently, it is found out that the rate of duty was in fact 30%, and the assessee has not collected anything over and above Rs.120/-. In such a case, the value for the purpose of charging duty will be: Rs.120/1.3 = Rs.92.3.

15.2 Rule 7 of the Valuation Rules provides as to how the value is to be determined in the case of goods sold from a depot etc. This provision is now being incorporated in section 4 of the Central Excise Act itself whereby Sub-section 3 has been amended to provide that "place of removal" will include a depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold after their clearances from the factory. Suitable amendments have been made to provide that the time of removal in the case of goods removed from the place of removal shall be deemed to be the time of clearance of such goods from the factory.

15.3 Rule 5 of the Valuation Rules provides for deduction of actual cost of transportation when the price at the place of removal is not known. This is subject to production of actual invoice. It is proposed to allow deduction of freight worked out on an average basis. It is clarified that the deduction of average freight or actual freight is only in respect of cost of transportation beyond the place of removal when the goods are sold for delivery at a place other than the place of removal. In case of a depot, the cost of transportation upto the point of depot or any other place from where the goods are sold will continue to be included.

16. Retrospective Amendments

16.1 It may be recalled that notification No.61/2002-CE dated 23.12.2002 was issued to provide that:

(i) the Cenvat credit of the duty paid on the inputs used in the manufacture of final products cleared after availing of the exemption under notification No.32/99-CE and 33/99-CE both dated 8.7.1999 [North East exemption notifications] shall be utilized only for payment of duty on the final products cleared after availing of the exemption under the said notifications; and

(ii) the refund allowable under these notifications shall not exceed the amount of duty paid less the amount of the Cenvat credit availed of, in respect of the duty paid on the inputs used in or in relation to the manufacture of goods cleared under the corresponding exemption notification.

16.2 Similarly, notification No.42/2002-CE (NT) dated 23.12.2002 was issued to disallow diversion of the credit taken on inputs used for manufacture of products exempted under the said North East notifications for payment of central excise duty on other products. Such diversion simply implied payment of a greater amount of duty through account-current on the products exempted under the said notifications thereby resulting in unintended benefit. The following illustration shows how the scheme was being misused:

Illustration: Suppose duty payable on the goods was Rs.100/- and the duty paid on inputs for the manufacture of said goods is Rs.20/-. What the notification 32/99-CE and 33/99-CE envisage is that the manufacturer will utilize the full credit in respect of inputs and pay only Rs.80/- in cash, which would be subsequently refunded to him. However, there are cases where a manufacturer did not utilize the input credit and paid the entire duty of Rs.100/- in cash. The credit of Rs.20/- was being kept by him in reserve to be utilized on some other goods not covered under the exemption notifications. There were also situations when the assessee was manufacturing two goods, one covered under the above notifications, and the other outside. What they were doing was to utilize the entire input tax credit for payment of duty on the product not covered under the exemption notification, and paying full duty on the exempted goods and getting back full refund.

16.3 The amendments made in December, 2002 sought to plug this loophole. These provisions are now being given retrospective effect w.e.f. 8.7.1999[clauses 142 to 145 of the Finance Bill]. Consequently, all assessments from 8.7.1999 onwards in respect of these two notifications will have to be revised to ensure that the entire credit of duty paid on the inputs used in the manufacture of the exempted final products is used only for payment of duty on final products cleared under these notifications and refund is restricted to total duty paid less the total credit in respect of the duty paid on inputs. Thus, in the above illustration, refund will be restricted to Rs.80/-, though the duty paid in cash was Rs.100/-. Similarly, if any credit taken in respect of inputs used in the manufacture of goods cleared under 32/99-CE and 33/99-CE, was used for payment of duty on other goods not entitled to the benefit under these notifications, such credit is not admissible and amount equal to the credit so utilized has to be demanded from the manufacturers. As the assessee will have to make the payment within 30 days of the enactment of Finance Bill, it is suggested that necessary action be taken to work out the amount to be recovered before this date. Similar amendment has also been made prospectively in the notifications for Kutch district of Gujarat and State of J&K. It may be ensured that refund of duty is made only in accordance with the above provisions.

16.4 Clause 146 (1) of the Finance Bill amends notification No.32/99-CE and 33/99-CE retrospectively so as to provide that the exemption under this notification will not be available to cigarettes and pan masala containing tobacco with effect from 8.7.1999 and in respect of all products of chapter 24 w.e.f. from 1.3.2001. Here also, action has to be initiated to recover the amount within 30 days of the enactment of the Finance Bill.

16.5 Notification no.32/99-CE has also been amended retrospectively to provide that w.e.f. 12.2.2002, benefit under this notification will not be available to goods manufactured and cleared by (i) Numaligarh Refineries Limited (ii) Bonagaigaon Refineries and Petrochemicals Limited (iii) Indian Oil Corporation, Guwahati and (iv) Assam Oil Division, Indian Oil Corporation, Digboi (clause 146(1) of the Finance Bill).

16.6 Under rule 57R(8) of the Central Excise Rules, there were some disputes as to whether the credit was admissible in the case of manufacturers who claim revenue expenditure in respect of amount of duty paid on the finished goods in the profit and loss account. It was argued that the manufacturer can be said to have claimed

revenue expenditure in respect of the duty paid on the finished goods through modvat credit. Consequently, it was argued that the credit taken of the duty paid on the capital goods was not permissible.

16.7 As this was not the intention, rule 57R(8) and 57R(5) have been amended retrospectively with effect from 23.7.1996 so as to delete the reference to revenue expenditure. Credit would be admissible so long as the manufacturer does not claim depreciation under section 32 of the Income Tax Act, 1961 in respect of that part of the value of capital goods which represents the amount of specified duty on such capital goods. Consequently, on enactment of the Finance Bill, 2003, all pending cases may be decided accordingly in the light of amendment made [clause 141 (1) of the Finance Bill].

17. **Pre-budget stocks**

17.1 You are aware that the restrictions on clearances on budget day have been removed this year with the result that all clearances upto midnight of 28.2.2003/1.3.2003 are entitled to pay duty at the rates prevailing on this date. All the budgetary changes, unless otherwise stated, will come into effect from midnight of 28.2.2003/1.3.2003 and clearances effected after this period will attract the new rates of duty. As regards the dutiability of the stocks manufactured prior to 28.2.2003/1.3.2003, pre-budget stocks will be leviable to excise duty at the rates prevailing on the date of their removal. In other words, the goods cleared after 28.2.2003 would be liable to pay duty at the new rates even if they were exempted on or prior to 28.2.2003. However, goods which were not subject to the levy at all, for instance, the levy of NCCD on new items, same will have to be treated differently. In this connection, your attention is invited to the decision of the Supreme Court in the case of CCE Hyderabad vs. Vazir Sultan Tobacco Ltd 1996(83)ELT3(SC) which has laid down the guidelines as regards the duty liability of pre-budget stock. In other words, in respect of a completely new levy, the pre-budget stock will not attract the new levy as there was no liability when the goods were manufactured, irrespective of their date of removal.

(II). Customs

18. The highlights of the changes on the customs side are:

18.1 **Peak rate of customs duty**

The peak rate of customs duty has been reduced from 30% to 25%. No reduction is, however, effected on agricultural and dairy products.

18.2 **Petroleum**

Additional customs duty on motor spirit and high speed diesel oil has been increased from Re.1 per litre to Rs.1.50 per litre [clause 159 and 160 of the Bill].

18.3 **Baggage :** Customs duty on baggage has been reduced from 60% to 50%.

18.4 **Transport:** Except in CKD form, cars in all other forms, including completely built unit will attract customs duty at 60%.

19. **Tea:** An additional duty of customs on tea and tea waste @ Re. 1 per Kg. has been proposed for the purposes of the Union [clause 121(1) of the Bill].

20. **Export Promotion Measures**

- ✍ Customs duty on gold bars, serially numbered and weight expressed in metric units (except tola bars), and gold coins has been reduced from Rs.250 to Rs.100 per 10 grammes.

21. **National Calamity Contingent Fund**

For replenishment of the above fund, a duty of Rs.50 per metric tonne has been imposed on imported crude oil. A duty of 1% also has been imposed on polyester filament yarn, two-wheelers and motor cars. The imposition on these items will be valid for one year (upto 29.2.2004). The goods covered under the NCCD earlier under 7th Schedule of Finance Act, 2001, has been amended by the Thirteenth Schedule [read with clause 126(1) and 161 of the Bill].

22. A number of legislative changes have been made in the Central Excise Act as also the Customs Act. Finance Bill may please be referred to for details. All these changes, unless otherwise specified, will come into force from the date of enactment of Finance Bill, 2003.

23. In the explanatory notes for the last year's budget it was clarified that for computing the CVD, only the value of imported article as determined under section 14 of the Customs Act, 1962, including the landing charges, if any and the basic customs duty chargeable at the rates specified in the First Schedule to the Customs Tariff Act(read with any notification for the time being in force in respect of the basic customs duty) needs to be taken into account. Other duties such as anti-dumping duty, safeguard duty, etc. should not be taken into account. A view has been expressed that section 3A of the Customs Tariff Act does not permit such interpretation. To place the matter beyond doubt, it is proposed to amend section 3 and section 3A of the Customs Tariff Act so as to make it very clear that for computation of additional duty of customs, only the c.i.f. price, landing charges and basic customs duty will be included. Similarly for determining special additional duty of customs (SAD), only the c.i.f. price, landing charges, basic customs duty and the additional duty of customs will be included. Other duties such as anti-dumping duty, safeguard duty, etc. shall not be taken into account. This amendment will have effect from 1.3.2002.

24. As you would be aware, the 8 digit customs classification was introduced through an Ordinance on 1.2.2003. As a consequential change, some of the exemption notifications have been amended so as to incorporate the 8 digit headings.

25. **Miscellaneous(Customs and Excise)**

- 1) For the purpose of charging excise duty on computers, the value of pre-loaded software will be excluded.
- 2) Rope, twine and similar items are being exempted from excise duty.
- 3) It has been provided that a manufacturer will be required to reverse only that portion of credit which was availed of by him at the time of receipt of inputs/capital goods in his factory, when such inputs or capital goods are cleared as such from the factory.
- 4) A new section 11DD is being inserted enabling recovery of interest on the amount recoverable under section 11D of the Central Excise Act.
- 5) Section 13 of Central Excise Act has been amended to provide that power of arrest can be exercised by a Central Excise Officer, not below the rank of Inspector, only with prior approval of the Commissioner.
- 6) The jurisdictional DC/AC have been permitted to allow manufacturers to store inputs, in respect of which credit of duty has been taken, outside the factory, subject to suitable safeguards.
- 7) Full rebate of excise duty paid on petroleum products exported as stores for consumption on board an aircraft on foreign run has been allowed.
- 8) Interest on advance deposit not to be included in the case of goods made to specification of the buyer unless there is specific evidence that such deposit has the effect of lowering the price.
- 9) Finance Act, 1989 is being amended to provide for punishment of specified persons if the carrier fails to pay the Inland Air Travel Tax collected from the passengers to the credit of the Central Government.
- 10) The existing provision of prior approval of show cause notice by the Chief Commissioner/Commissioner is being withdrawn and the earlier position of approval by the proper officer is being restored.
- 11) The provisions regarding appeal to the High Court are being modified so as to provide that in respect of appeals against orders of the Tribunal passed on or after 1.7.2003, the High Court, instead of referring the issue to the Tribunal, will itself formulate the question of law and decide.
- 12) The name of the Customs, Excise and Gold (Control) Appellate Tribunal is being changed to Customs, Excise and Service Tax Appellate Tribunal.
- 13) The jurisdiction of the Advance Ruling Authority is being expanded so that it can decide on matters of Service tax, Cenvat credit, and all notifications under the Customs Act, Central Excise Act, and notifications issued under the Finance Acts. Scope of applicability is also being widened.

- 14) It is being provided that interest will be payable in respect of drawback claims after one month as against two months now.
- 15) The power of adjudication of Customs Officers is being raised. AC/DC will now have the power to adjudicate upto an amount of Rs.2 lakhs as against Rs.50,000/- now. For officers below the rank of AC/DC, the limit will be Rs.10,000/- as against Rs.2,500/- now.
- 16) Section 7 of the Customs Act, 1962 is being amended so as to delegate the powers of the Central Government to the Board for appointment of customs ports/airports/ICDs etc.
- 17) Section 15(1)(b) of the Customs Act is proposed to be amended so as to provide that the relevant date for determination of rate of duty on home clearance of warehoused goods would be the date of presentation of the ex-bond bill of entry for home consumption.
- 18) Section 25 of the Customs Act, 1962 is proposed to be amended to provide that no duty will be collected if the total amount of duty leviable is Rs.100 or less.
- 19) Section 27(2) of the Customs Act is being amended to enable an exporter to claim refund of duty and interest subject to the provisions of unjust enrichment.
- 20) Section 30 of the Customs Act is proposed to be amended to provide for delivery of import manifest before the arrival of vessel or aircraft and within 12 hours of arrival of a vehicle, and for levy of penalty not exceeding Rs.50,000/- if there is no sufficient cause for the delay.
- 21) Section 61(1) of the Customs Act is being amended to provide that the period of warehousing in respect of goods (other than capital goods) intended for use in 100% EOU's will be increased from 1 year to 3 years.
- 22) Section 61(2) of the Customs Act is being amended so as to increase the interest free period for warehoused goods from 30 days to 90 days.
- 23) Section 68 of the Customs Act is being amended so as to enable the owners of any warehoused goods to relinquish his title to the goods on payment, rent etc at any time before an order for clearance of these goods for home consumption has been made. On his relinquishing title, the importers will not be liable to pay duty on such goods.
- 24) Section 113 of the Customs Act is being amended so as to provide that this section applies to offences in relation to all exports, and not on dutiable or prohibited exports only.

26. **Revenue statements**

26.1 Though this issue is not directly linked with the budget, but is being reiterated in view of the difficulties faced in the Board regarding timely receipt of information on revenue realization. Despite clear instructions, revenue figures are not being posted in CRRS site by some of the Commissionerates by the due dates. I would like to reiterate that from this month onwards, all Commissioners must ensure that the revenue figures are put on the CRRS site on due dates. It has also been noticed that on many occasions, the revenue figures are being changed off and on. This needs to be avoided.

26.2 I am enclosing a copy of monthly revenue statement which should be sent by the Chief Commissioners in respect of the commissionerates in their jurisdiction. This statement for a particular month must be sent so as to reach by 25th of the next month positively (Annexure I). This statement is in addition to other revenue statements being furnished.

26.3 In a number of cases, excise duty rates have been altered. It has been decided to collect data on the price behaviour and revenue implications. The information about the prices may kindly be supplied in the proforma at Annexure-II to this letter. You may kindly ensure that the information furnished is accurate since reliance will be placed on this data at the time of discussion of the Finance Bill in Parliament. The first report in this regard may be sent by 15th March, 2003 and subsequently at an interval of one month i.e. 15th of every month.

26.4 In the Explanatory Memorandum, we have asked for special reports in few cases. They may kindly be arranged to be sent on time after careful scrutiny.

27. I would take this opportunity to thank all of you, on my behalf and on behalf of the officers of the Tax Research Unit for the valuable suggestions you made in response to my earlier communication. These have provided valuable inputs. In fact, some of the proposals here are the direct outcome of such inputs.

28. It may kindly be ensured that in respect of units which would be required to pay excise duty w.e.f. 1.3.2003 for example, edible oil manufacturers, there is no hold up in clearances on the ground that procedural formalities have not been completed. You are requested to facilitate the registration of such units, if not already registered, and to explain the formalities which need to be completed but this should not be a ground for not allowing the clearances on payment of duty. If there is any difficulty, provisional assessment may be resorted to.

29. All rate changes in customs and excise duties are explained in detail in the Explanatory Notes. You would appreciate that number of changes have been carried out through amendments in notifications, rules and Acts. Though every care has been taken to reflect the intention of the Government clearly in all these documents, the chances of human error cannot be ruled out. I would, therefore, request you to kindly go through the explanatory notes, notifications and Finance Bill carefully and bring to my notice at the earliest any omission/error that might have crept in. If there is any doubt or difficulty on any point, you are requested to bring it immediately to my notice. You could also contact Shri Gautam Bhattacharya, Director, TRU (Tel No.23092634), Shri Alok Shukla, Deputy Secretary, TRU (Tel No.23092753) or Shri V. Sivasubramanian, Deputy Secretary, TRU (Tel No. 23092236). Copies of the FM's speech, notifications, Finance Bill etc, are forwarded herewith. These will also be available on the department's website soon after the conclusion of FM's speech.

With regards,

Yours sincerely,

(Gautam Ray)

To

All Commissioners of Customs
and Central Excise

REVENUE COLLECTION FROM CUSTOMS AND EXCISE

Report upto the month of _____

Financial Year :
2003-04

A: CUSTOMS

(F
Cror

Sr. No.	Components of Customs Duty	Commissionerate-I		Commissionerate-II		----		Zonal Total	
		Customs Revenue						Customs Revenue	
		For the month	Upto the month					For the month	Upto the month
1	2	5	6						
1	Total Basic duty								
2	Total Additional Duty of Customs (CVD)								
3	Total Special Additional Duty of Customs (SAD)								
4	Additional Customs duty (Cess) on HSD								
5	Additional Customs duty (Cess) on MS								
6	Surcharge on Petroleum Goods on MS								
7	National Calamity Contingent Duty (N C Duty)								
8	Others								
9	Total Gross Revenue (1 to 8)								
10	Refunds								
11	Drawbacks								
12	Total Net Revenue (9-10-11)								

B: EXCISE

(If
Crore)

Sr. No.	Components of Excise Duty	Commissionerate-I		Commissionerate-II		----		Zonal Total	
		Gross PLA						Gross PLA	
		For the month	Upto the month					For the month	Upto th month
1	2	5	6						
1	Total Basic and SED								
2	Total Additional Excise Duties on textiles and textiles articles								
3	Total Additional Excise Duties in lieu of sales tax								
4	Additional duty of Excise (Cess) on HSD								
5	Additional duty of Excise (Cess) on MS								
6	Surcharge on Petroleum Goods on MS								
7	National Calamity Contingent Duty (N C Duty)								
8	Additional Duty of Excise on Tea								
9	Cess from Indigeneous Crude Oils								
10	Other cess other than items No. 8 & 9								
11	Others								
12	Total Gross Revenue (1 to 11)								
13	Less Refunds and Drawbacks								
14	Total Net Revenue (12-13)								

Remarks: Drawbacks figures are exclusive of Drawbacks paid by customs houses

Note: Monthly Report may be sent by the Chief Commissioner in respect all Commissionerates under his/his jurisdiction latest by 20th of next month.

Annexure-II

PRICE DATA

Report for the period

Commodity

Chapter No.

Date	Description of Goods	Heading / sub-heading No.	Ex-factory Price(Rs.)	Excise Duty paid	Wholesale price inclusive of all taxes (Rs.)	Retail price	Remarks
28.2.2003							
7.3.2003							
15.3.2003							
22.3.2003							
29.3.2003							
5.4.2003							
12.4.2003							
19.4.2003							
26.4.2003							

Notes:

1. Description should be specific and should indicate the brand name and unit of sale, e.g. 'X' brand refined oil – weight 'Y' grams. Subsequent report should refer to this brand name only. New brands, if any, can be added in any subsequent report by mentioning similar details.
2. Information should be confined to goods manufactured in the jurisdiction of the Commissionerate. Retail price should be obtained from market survey along with printed retail price list, if any.
3. In remarks column, kindly indicate in broad terms the average percentage of input duty which would be available as credit.
4. First report should give the position as on 28.2.2003 and 7.3.2003 and should report should give position as on 15.3.2003 and so on. The first report should be sent so as to reach latest by 10.3.2003. Subsequent report should give the position as on 15.3.2003, 22.3.2003, 29.3.2003, 5.4.2003, 12.4.2003, 19.4.2003 & 26.4.2003 and should reach within 5 days after the expiry of the specified date.
5. While submitting the reports for the period subsequent to 15.3.2003, the detail submitted in the earlier reports may kindly be repeated. To illustrate, while

submitting the reports for the period ending on, say, 29.3.2003, the details given in the report for 7.3.2003, 15.3.2003 and 22.3.2003 should also be repeated.

6. Copy of the reports meant for TRU should be sent by name to Shri D.K.Pandey, Under Secretary, Tax Research Unit, R.No.146, North Block, and New Delhi-110001.

7. Reports should be in respect of items specified below:-

- (i) Petrol
- (ii) High Speed Diesel Oil
- (iii) Spun Yarn (other than pure cotton)
- (iv) Cement
- (v) Woolen Yarn and Fabric
- (vi) Polyester, Nylon and Viscose Filament Yarns
- (vi) Ceramic Tiles
- (vii) Cotton fabrics, processed
- (viii) Man made fabrics, processed
- (ix) Made-up textile articles
- (x) Ready made garments, including knitted garments
- (xi) Tyres (for replacement), also ADV tyres
- (xii) Medical equipment
- (xiii) Biscuits
- (xiv) Scented supari
- (xv) Paper made from at least 75% unconventional raw materials
- (xvi) Wood free particle or fibre board made from agrowaste
- (xvii) Refined edible oils
- (xviii) Vanaspati
- (xix) Bakery shortening
- (xx) Margarine and similar edible preparations
- (xxi) Matches
- (xxii) Aerated waters
- (xxiii) Motor cars
- (xxiv) Air conditioners
- (xxv) Sugar confectionery, excluding white chocolate
- (xxvi) Bicycles