

## EXCISE

**Note :- SED means levy of Special Excise Duty.**

**AED (GSI) means Additional Duty of Excise levied under Additional Duties of Excise (Goods of Special Importance) Act.**

**Major Proposals about Central Excise duties are the following :**

### **A. AD-VALOREM DUTY RATE STRUCTURE**

- (I) Three-tier duty structure of 8%, 16% and 24% (except for petroleum products, tobacco products, pan masala, textiles and specific-rated products).
- (II) SED has been reduced from 16% to 8% on following items:
  - 1) Tyres
  - 2) Aerated soft drinks and their concentrates
  - 3) Polyester Filament Yarns
  - 4) Air Conditioners and components
  - 5) Motor Cars

### **B. RELIEF MEASURES:**

- (I) **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) Recorded audio CDs
- 8) Articles of wood
- 9) Imitation zari
- 10) Adhesive tape
- 11) Tubular knitted gas mantle fabric for use in incandescent gas mantles
- 12) Umbrellas
- 13) Walking sticks, riding-crops and like
- 14) Articles of mica
- 15) Kerosene pressure lanterns
- 16) Glass for corrective spectacle lenses, flint buttons
- 17) Registers, accounts books, etc.
- 18) Slag arising in the manufacture of iron and steel
- 19) Gold arising in the course of copper/zinc smelting

- (II) **Excise duty on following items has been reduced from 16% to 8% with full CENVAT credit:**

- 1) Pressure cookers
- 2) Biscuits
- 3) Boiled sweets, sugar confectionery (excluding white chocolate)
- 4) Rough ophthalmic blanks
- 5) Dental chairs
- 6) Electric vehicles
- 7) Scented supari
- 8) Nicotin Polacrilex gum

- (III) **Present duty of 4% without Cenvat credit or 16% with Cenvat credit has been rationalized at 8% with Cenvat credit on the following items**

- 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

### **C. IMPOSITION OF DUTY:**

**Excise duty of 8% with CENVAT credit has been imposed on the following items:**

- 1) Refined edible oils (branded and packed for retail sale) \*
- 2) Vanaspati, 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 atleast 75% non-conventional raw materials.
- 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.**

**D. 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, multiutility vehicles, and two-wheelers;
- 2) Rs.50 per metric tonne on domestic crude oil. However, crude oil produced either in the discovered fields under the Production Sharing Contract or in the exploration blocks offered under the New Exploration Licensing Policy (NELP) will be exempt from such levy.

This levy will be valid for one year (upto 29.2.2004)

**E. AED (Goods of Special Importance) 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.

**F. PETROLEUM PRODUCTS:**

- 1) Additional duty of Excise on motor spirit and high speed diesel oil has been increased from Re.1 per litre to Rs.1.50 per litre.
- 2) Excise duty on light diesel oil (LDO) has been increased by Rs.1.50 per litre.
- 3) Concession of thirty paise per litre from surcharge on motor spirit, intended for use in the manufacture of ethanol doped petrol, has been continued for one more year, upto 29.2.2004.
- 4) No Cenvat credit will be allowed in respect of duty paid on LDO.

**G. TEA:**

Tea has been exempted from excise duty of Re. 1 per Kg. and 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.

**H. HEALTH:**

- 1) Following items have been exempted from excise duty:
  - (a) Specified life saving drugs and life saving equipments.
  - (b) Glucometers and glucometer test strips
  - (c) Cyclosporin
  - (d) CAPD fluid system, its accessories and parts
  - (e) Drugs and materials for clinical trial
  - (f) Parts of wheel chairs
- 2) Drug intermediates used captively in the factory of production has been exempted from excise duty.

**I. SMALL SCALE INDUSTRIES EXEMPTION SCHEME:**

- 1) Value of exempted goods will be included (excluding exports) for calculating the eligibility limit of Rs. 3 crores under SSI exemption with effect from 1.4.2003
- 2) SSI exemption has been withdrawn on the following items with effect from 1.4.2003:
  - (a) Ceramic tiles. Printed ceramic tiles made from duty paid tiles outside the factory will be exempted from excise duty.
  - (b) Stainless steel patties/pattas.

**J. CEMENT:**

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

**K. MEDICINAL & TOILET PREPARATIONS:**

- 1) 1<sup>st</sup> March, 2003 has been notified as the date on which the amendment to M&TP Act, 1955 carried out vide Finance Act, 2000 shall come into effect.
- 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 retail sale price (RSP) basis, with an abatement of 40% on the RSP.

**L. MATCHES:**

- 1) 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.
- 2) Matches made by non-mechanized sector have been exempted from excise duty.

- 3) Special procedure for payment of duty on matches through excise stamps is being abolished consequent to introduction of advolarem levy.

#### **M. RETAIL SALE PRICE (RSP) BASED ASSESSMENT:**

##### **I. Following items have been included in the scheme of RSP based assessment**

- 1) Pesticides and insecticides with an abatement of 35% of the Retail Sale Price (RSP) for arriving at the assessable value.
- 2) Chewing tobacco and preparation containing chewing tobacco with an abatement of 50% of the RSP for arriving at the assessable value.

##### **II. Sanitary ware and fixtures of ceramics have been excluded from the ambit of RSP based levy.**

##### **III. Changes in rates of abatement, consequent to the reduction in rates of excise duty**

- 1) Abatement on aerated water has been reduced from 50% to 45% of the RSP
- 2) Abatement on air conditioners has been reduced from 40% to 35% of the RSP
- 3) Abatement on biscuits has been reduced from 40% to 35% of the RSP
- 4) Abatement on boiled sweets, sugar confectionery (excluding white chocolate) has been reduced from 40% to 35% of the RSP.
- 5) Abatement on scented supari (betel nut powder known as supari) has been reduced from 35% to 30%.
- 6) Abatement on pressure cookers has been reduced from 35% to 30%

##### **IV. 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 is being 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 so as 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.

#### **N. SERVICE TAX:**

- 1) Rate of service tax is being raised from 5% to 8%.
- 2) Service tax @ 8% is being 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 inspection and certification.
  - c) Maintenance and repair services namely, Annual Maintenance Contracts (AMC) and authorized maintenance and 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, 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
- 3) Extension of service tax on port services to minor ports.
- 4) Extension of service tax on authorized automobile services to multi-utility vehicles.
- 5) 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.
- 6) The present exemption from service tax on hotels has been extended beyond 31.3.2003.
- 7) Exemption from service tax when payments are received in convertible foreign exchange has been withdrawn.
- 8) Credit of service tax paid on input services for payment of service tax on output services, is being extended across all services (only after enactment of the Finance Bill).
- 9) Provision is being made for appeal against rejection of refund claim in respect of service tax.
- 10) Provision is being made for transfer of service tax credit in the case of sale, merger, amalgamation etc.
- 11) Provision is being made for allowing credit of service tax only when the payment has been made by the service user in respect of services provided.
- 12) Retrospective amendment is being made in section 68, section 71 and a new section 71A has been inserted in the Finance Act, 1994 so as to validate the service tax collected from service receiver of Goods and Transport Operators services and C&F services for the period prior to 16.10.1998.
- 13) Retrospective amendment to notification No.43/97-ST dated 5.11.1997 is being 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 16.11.1997 to 1.6.1998.

**O. Textiles:****1. Yarns:**

- 1) 8% excise duty is being retained only for cotton yarn not containing any other textile material.
- 2) Uniform rate of 12% excise duty has been prescribed on polyester cotton, cotton viscose and all other spun yarns (present rates are 8% for some cotton viscose yarn, and 16% for others).
- 3) Excise duty on polyester filament yarn has been reduced from 32% to 24%.
- 4) Excise duty on all other filament yarns (such as viscose filament yarn, nylon filament yarn) has been reduced from 16% to 12%.
- 5) Specific duty rates on bleaching, dyeing and other processes done on spun and filament yarn has been withdrawn. Such yarns will attract duty at rates applicable to the corresponding yarns.\*
- 6) Specific duty rates on texturizing or twisting of polyester filament yarn carried on by independent texturisers is being withdrawn. Such yarns will attract duty of 24%.\*
- 7) SSI exemption benefit is being withdrawn for shoddy and woollen yarn.\*

\*The above changes will come into effect from 1.4.2003.

**2. 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 knitted or crocheted 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) is being replaced by an *ad valorem* duty of 10%. This change would come into effect from 1.4.2003;
- 8) Following exemptions are being removed with effect from 1.4.2003:
  - (a) Exemption to hand processors, if power or steam is used in any process;
  - (b) Cotton fabrics used in the manufacture of cotton absorbent lint (will be covered under SSI exemption);
  - (c) Rubberized textile fabrics;
  - (d) Woven, unprocessed cotton belting;
  - (e) Narrow woven fabrics;
  - (f) Pleated, embossed fabrics made from duty paid processed fabrics;
  - (g) Fabric subjected to dew-drop process.
  - (h) Printing frames captively consumed;
  - (i) Processing of embroidery fabrics;
  - (j) SSI exemption to be removed on woven pile and chenille fabrics, terry toweling fabrics, tufted fabrics, tulles and net fabrics.
  - (k) Processed woollen fabrics (below Rs.150 per square metre) made from shoddy yarn etc. for manufacture of shoddy blankets.
- 9) Fabrics and garments manufactured by non-profit charitable institutions have been exempted from excise duty.

**3. 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 or crocheted garments is being reduced from 12% to 8% while on other knitted or crocheted garments duty has been reduced from 12% to 10%;
- 3) Optional exemption on woven, knitted and crocheted garments/accessories is being withdrawn with effect from 1.4.2003.
- 4) The duty on woven, knitted and crocheted clothing accessories has been reduced from 16% to 10%;
- 5) The following exemptions are being withdrawn with effect from 1.4.2003:
  - (a) Raincoats, undergarments and clothing accessories like handkerchief, ties and gloves. These goods will be covered under SSI exemption.
  - (b) Textile articles made from handloom fabrics (SSI exemption would be available).
  - (c) SSI exemption on ready made garments.
  - (d) Blanket of wool and shoddy yarn below certain price.
- 6) Garments made by tailors, on job work basis, for personal use of customers and not intended for sale, have been exempted from excise duty.
- 7) Job work facility will be extended across the entire textile sector. The job worker will have the option of not being under excise registration if the supplier of the fibre, yarn, fabrics, undertakes to pay the duty. This would come into effect from 1.4.2003.
- 8) Cenvat Credit Rules, 2002 have been amended to allow credit of AED (GSI) paid for payment of Cenvat duties and special excise duty.

**4. Textile Machinery**

Twelve textile machinery items, which are presently exempt from additional duty of customs, are being exempted from excise duty.

**P. Miscellaneous**

- 1) For the purpose of charging excise duty on computers, the value of pre-loaded software will be excluded.

- 2) Excise duty on CD-ROMs of educational nature etc. and on cell phone and their parts, has been exempted.
- 3) Goods supplied for construction of ships for coast guard have been exempted from excise duty.
- 4) Rope, twine and similar items are being exempted from excise duty.
- 5) Excise duty on chassis of motor vehicles has been increased from 16% to 16% plus Rs.10,000/- per chassis.
- 6) Excise duty exemption on animal driven vehicle tyres has been withdrawn. Such tyres will attract duty at 24%.
- 7) 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.
- 8) 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.
- 9) 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.

#### **Q. Amendments in Act and Rules**

- 1) 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.
- 2) To include goods supplied to Defence projects, raw naphtha and furnace oil used for generation of electricity in the ambit of rule 6 of CENVAT Credit Rules, 2002, for availing the CENVAT credit so long as credit taken in respect of their inputs is reversed.
- 3) Cenvat credit would be admissible even if gold or silver, which are exempted, arise in the course of smelting of copper or zinc.
- 4) The powers of Commissioner have been delegated to Deputy Commissioner/Assistant Commissioner for allowing transfer of credit under rule 8(2) of the CENVAT Credit Rules, 2002.
- 5) Section 2(f)(iii) of the Central Excise Act which enables the Central Government to declare a process as "manufacture" is being rescinded.
- 6) Section 4(3)(c) of the Central Excise Act is being amended so as to provide that place of removal would also include a depot, premises of a consignment agent or any other place from where the excisable goods are sold after clearance from the factory. The definition of "time of removal" has also been accordingly modified.
- 7) Section 4 of the Central Excise Act is being amended so as to provide that the total amount received by an assessee would be deemed to comprise the value for assessment plus duty payable on such value, and that additional consideration received in addition to the cum-duty value will be deemed as consisting of value plus duty.
- 8) Powers of Central Government to issue adhoc exemption order under Section 5A(2) of the Central Excise Act in circumstances of an exceptional nature is being restored.
- 9) The nomenclature of the "Customs, Excise and Gold (Control) Appellate Tribunal" is being changed to "Customs, Excise and Service Tax Appellate Tribunal".
- 10) Section 11A(1) of the Central Excise Act is being amended so as to do away with the requirement for the prior approval of the Show Cause Notices for demand of duty by the Commissioner of the Chief Commissioner, as the case may be.
- 11) The provision to dispense with show cause notices and adjudication proceedings if short levy is paid with interest under Section 11A(2B) of the Central Excise Act being extended to cases where the department detects the short levy.
- 12) A new section 11DD is being inserted enabling recovery of interest on the amount recoverable under section 11D of the Central Excise Act.
- 13) Section 13 of Central Excise Act is being 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.
- 14) The scope of rulings given by the Advance Rulings Authority is being widened to cover all notifications under the Finance Act, CENVAT credit and matters of Service Tax and to allow wholly owned subsidiary Indian company of a foreign company also to avail of the benefit of Advance Ruling.
- 15) Deputy Commissioners/Assistant Commissioners have been authorized to condone technical lapses or procedural infringements on the part of assessee for avilment of CENVAT credit so long as duty paying nature of the inputs/capitals goods and their use is beyond doubt.
- 16) The jurisdictional Deputy Commissioners/Assistant Commissioners have been permitted to allow manufacturer to store inputs, in respect of which credit of duty has been taken, outside the factory, subject to suitable safeguards.
- 17) Full rebate of excise duty paid on petroleum products exported as stores for consumption on board an aircraft on foreign run has been allowed.
- 18) The present scheme of payment of excise duty on fortnightly basis is being replaced by payment on monthly basis. Now the assessee would be required to pay duty for a particular month by the 5<sup>th</sup> of the next month. However, duty for the month of March will have to be paid by the 31<sup>st</sup> March. This provision will come into effect from 1.4.2003.
- 19) The date of deposit of cheque or other similar instruments in the bank would be treated as the date of payment of excise duty subject to realization of the cheque.
- 20) It has been provided that in the case of default in making the payment of duty assessed, the facility of paying duty in monthly instalments will not be withdrawn nor will the assesses be debarred from utilization of the CENVAT credit. However, in addition to payment of duty assessed, an interest of 2% per month or Rs.1,000 per day, whichever is higher, 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) will have to be paid. This provision will come into effect from 1.4.2003.
- 21) Provisions are being made in Central Excise Act to provide that in respect of all appeals against the orders of CEGAT passed on or after 1<sup>st</sup> July, 2003, the High Court will formulate the question of law instead of referring the matter to the Tribunal".

- 22) Averaged freight, determined in accordance with generally accepted principles of costing, would be admissible for deduction in respect of transportation beyond the place of removal, where price at the place of removal is not known.
- 23) Notional interest on advance deposit will not 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.
- 24) 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.

**R. Retrospective Amendments:**

- 1) The Central Excise Rules are being retrospectively amended with effect from 23.7.1996 so as to omit the reference in rule 57R, to the manufacturer claiming deduction of the credit of duty paid on capital goods as revenue expenditure under the Income Tax Act. Accordingly, the credit of duty paid on capital goods will not be allowed only on that part of the duty paid on the capital goods on which the manufacturer claims depreciation under section 32 of the Income Tax Act.
- 2) The Cenvat Credit Rules (and for the prior period, the Central Excise Rules) are being retrospectively amended to provide that the credit of duties paid on inputs used in the manufacture of final products cleared under notification No.32/99-CE and 33/99-CE both dated 8.7.1999 shall be utilized only for payment of duty on final products cleared after availing of the exemption under the said notifications.
- 3) Notification No. 32/99-CE and 33/99-CE both dated 8.7.1999 are being amended retrospectively with effect from 8.7.1999 so as to restrict the refunds under these notifications to the amount of duty paid, less the amount of credit on inputs utilized in the manufacture of exempted products.
- 4) The benefit of exemption from excise duty in respect of cigarettes, pan masala containing tobacco and other goods falling under Chapter 24 under notification No.32/99-CE and 33/99-CE dated 8.7.1999 is being withdrawn retrospectively.
- 5) The benefit of exemption from excise duty in respect of goods manufactured and cleared by (i) Numaligarh Refineries Limited (ii) Boganigaon Refineries and Petrochemicals Limited (iii) Indian Oil Corporation, Guwahati and (iv) Assam Oil Division, Indian Oil Corporation, Digboi, under notification no.32/99-CE dated 8.7.1999 is being withdrawn retrospectively with effect from 12.2.2002. Such units will continue to get 50% duty exemption under another notification.