

EXPLANATORY NOTES (EXCISE)

1.0 Education Cess

1.1 An education cess is being levied, as a duty of excise, on excisable goods manufactured in India. It shall be chargeable @ 2% on the aggregate duties of excise leviable on such goods (bill entries refer).

1.2 The credit of cess paid on inputs, except on motor spirit, high speed diesel (HSD) and light diesel oil (LDO), and capital goods will be available as credit, for payment of cess on the final products (notification Nos. 12/2004-CE(NT) refers). In the case of imported goods, the amount of additional duty of customs (CVD) paid under section 3 of the Customs Tariff Act, equivalent to the cess leviable on like indigenously manufactured product, will be eligible to be taken as credit.

1.3 The credit taken (of cess) can be utilized only for payment of cess on final products and not for payment of any other duty of excise.

2.0 CVD exemptions continued through excise duty exemptions

2.1 The existing CVD exemptions in respect of the following goods are being continued through excise duty exemptions (entries in notification No. 6/2002-CE inserted *vide* notification No. 23/2004-CE refer):

- (i) Gibberellic acid (S.No. 96 of notification No. 21/2002-Customs)
- (ii) Watermarked bank note paper (S.No. 155 of notification No. 21/2002-Customs)
- (iii) Liquefied natural gas (S.No. 77 of notification No. 21/2002-Customs)
- (iv) Plantation machinery (S.No. 252A of notification No. 21/2002-Customs)
- (v) All types of contraceptives (notification No. 22/2003-Customs)
- (vi) Artificial kidney (notification No. 22/2003-Customs)

3.0 Small Scale Sector

3.1 SSI exemption has been extended to watches of retail sale price not exceeding Rs. 500 per piece and parts thereof (notification Nos. 8 & 9/2003-CE as amended *vide* notification No. 24/2004-CE refer).

3.2 There is no change in the extent of concession, exemption limits, eligibility conditions and other conditions of the general SSI scheme.

4.0 Area based exemptions

4.1 A sunset clause has been introduced in case of area based exemptions for Sikkim, Uttranchal and Himachal Pradesh so as to provide that the exemptions would be available only to those new units which are set up or existing units which are substantially expanded and commence commercial production on or before 31.03.2007 (notification No. 27/2004-CE refers).

4.2 In the exemption scheme for specified units manufacturing tobacco products (other than cigarettes and biris) in the North East Region, the condition for investing the excise duty amount per quarter within six months from the end of the quarter has been relaxed. The amount can now be deposited in an escrow account with a condition that the amount would be invested in the North East Region within two years of the deposit in the said escrow account (notification No. 28/2004-CE refers).

5.0 **Chapter 1 to 17**

5.1 Excise duty on branded and packed preparations of meat, fish and poultry (1601.10) has been reduced from 16% to 8% (S.No. 282 of notification No. 6/2002-CE as inserted *vide* notification No. 23/2004-CE refers).

6.0 **Chapters 18 and 19**

6.1 Ice-cream and non-alcoholic beverages, prepared and dispensed by vending machines are exempt from excise duty. This exemption has been extended to other non-alcoholic beverages falling under Chapter 18 and 19, such as malted food drink and chocolate drinks, prepared and dispensed through vending machines (S.No. 8 of notification No. 6/2002-CE as amended *vide* notification No. 23/2004-CE refers).

6.2 Excise duty on cakes and pastries (1905.20) has been raised from 8% to 16% (S.No.273 of notification No. 6/2002-CE as amended *vide* notification No.23/2004-CE refers).

7.0 **Chapter 21**

7.1 Excise duty on scented supari has been raised from 8% to 16% (S.No. 249 of notification No. 6/2002-CE as amended *vide* notification No. 23/2004-CE refers). Abatement from RSP has been consequently raised from 30% to 35% (S.Nos. 19 & 19A of notification No. 13/2002-CE(NT) as amended *vide* notification No.13/2004-CE(NT) refers).

8.0 **Chapter 27**

8.1 Sunset clauses have been provided in case of exemption on naphtha used by specified power plants, so as to provide that exemption in case of power plants in Lists 1 & List 1A will be available only upto 1.7.2005 and 31.3.2005 respectively (S.Nos. 25 & 25A of notification No. 6/2002-CE read with provisos as inserted *vide* notification No. 23/2004-CE refer). In case of 20 MW Power Plant of M/s. Nagarujna Electric Generating Company at Patancheru, Medak District, Andhra Pradesh, the exemption has been withdrawn with immediate effect.

8.2 Sunset clause has been provided in case of exemption on residual fuel oil for generation of power, so as to provide that the exemption in this case will be available only upto 1.7.2005 (S.No.29 of notification No. 6/2002-CE read with proviso as inserted *vide* notification No. 23/2004-CE refers).

8.3 The existing exemption on naphtha/NGL used for generation of Synthesis gas or ammonia for manufacture of Heavy water has also been extended to naphtha/NGL used for generation of Steam (S.No. 24 of notification No. 6/2002-CE as amended *vide* notification No. 23/2004-CE refers).

8.4 Excise duty on food grade hexane (27.10) has been reduced from 32% to 16% (S.No. 283 of notification No. 6/2002-CE as inserted *vide* notification No. 23/2004-CE refers).

8.5 Excise duty on Liquified Natural Gas (LNG) has been exempted (S.No.284 of notification No. 6/2002-CE as inserted *vide* notification No. 23/2004-CE refers).

9.0 **Chapter 30**

9.1 The existing exemption to Diagnostic kits used for detection of Hepatitis B has been extended to all types of Hepatitis (S.No. 286 of notification No. 6/2002-CE as amended *vide* notification No. 23/2004-CE refers).

10.0 **Chapter 34**

10.1 Excise duty has been raised from 8% to 16% on Candles (3406.10) (S.No. 1 of notification No. 25/2004-CE omitted *vide* notification No. 25/2004-CE).

11.0 **Chapter 36**

11.1 Excise duty has been changed from 8% without Cenvat credit to 16% with Cenvat credit, on matches made in the mechanized or the semi-mechanised sectors (3605.10 or 3605.90) (S.No. 257 of notification No. 6/2002-CE omitted *vide* notification No. 23/2004-CE, and notification No. 12/2004-CE(NT) refers).

12.0 **Chapter 39**

12.1 Excise duty has been raised from 8% to 16% on plastic insulated ware (3923.10 and 3924.10) (S.No. 280 of notification 6/2002-CE as amended *vide* notification No. 23/2004-CE refers). Abatement has also accordingly been raised from 40% to 45% (S.No. 48 of notification No. 13/2002-CE(NT) as amended by notification No. 13/2004-CE(NT) refers).

13.0 **Chapters 40 to 49**

13.1 Newsprint in reels of chapter 48, is being exempted from excise duty (S.No. 288 of notification 6/2002-CE as inserted *vide* notification No. 23/2004-CE refers).

14.0 **Chapters 50 to 63 (Textiles)**

14.1 Polyester filament yarns, including polyester textured yarns (of sub-headings 5402.20, 5402.32, 5402.42 and 5402.43) would continue to attract Cenvat duty of 24%. Cenvat duty on other synthetic and artificial filament yarns and monofilaments including textured yarns (of sub-heading nos. 5402.10, 5402.31, 5402.39, 5402.41, 5402.49, 5403.10, 5403.20, 5403.31, 5403.33 and 5403.39) has been increased to 16% (notification No. 30/2004-CE superseding notification No. 7/2003-CE refers). Non-textured polyester filament yarn of denierage 750, and of tenacity exceeding 6.5 gm/denier falling under heading No. 54.02 would continue to attract excise duty of 16% (notification No. 36/2004-CE refers).

14.2 Synthetic and artificial fibres i.e. tow and staple fibres and wastes thereof (of heading nos. 55.01 to 55.05) would continue to attract duty of 16%. However, wastes of manmade fibres (of sub-heading 55.05), other than those arising during the course of manufacture of manmade fibres or filament yarns (including textured filament yarns) attracting mandatory duty, have been exempted. (S.No. 8 of notification No. 30/2004-CE refers).

14.3 Twisted, folded or cabled polyester filament yarns of subheading headings 5402.52 and 5402.62 would also continue to attract cenvat duty of 24%. Carded, combed or otherwise processed fibres of heading nos. 55.06 and 55.07 and twisted, folded or cabled manmade filament yarns (other than polyester) of heading nos. 54.02 and 54.03 would continue to attract excise duty of 16%. However, such fibres or yarns, procured from outside and subjected to processes such as carding, combing, twisting, folding, cabling etc., but not texturising, by a manufacturer not having facility in his factory to make base fibres/ yarns or textured yarn, have been exempted subjected to non-availment of Cenvat credit. (S.Nos. 6 & 10 of notification No. 30/2004-CE refer).The exemption is optional. For those opting to pay duty and avail Cenvat credit, the applicable rate of duty will be 24% or 16%, as the case may be.

14.4 **All textile goods, other than those mentioned under paras 14.1 to 14.3 above, e.g. spun yarns, grey or processed fabrics, garments, made-ups, textile articles etc., of chapters 50 to 63, have been exempted from excise duty subject to non-availment of Cenvat credit** (notification No.

30/2004-CE refers). **The exemption is optional. For those opting to pay duty, the rates of excise duty will be as follows,-**

- (i) **All textile goods made of pure cotton, not containing any other textile material - 4%.**
- (ii) **Other textile goods - 8%.**

These will also be the applicable rates for CVD purposes (notification No. 29/2004-CE refers). **Those opting to pay duty will be eligible to avail Cenvat credit. It may be noted that no intimation or permission is necessary either for availing of full exemption or paying duty and taking credit.**

14.5 Textiles and textile articles, presently attracting 'Nil' tariff rate, would continue to do so, except for silk yarn, yarn spun from silk waste, woven fabrics of silk and silk waste (of heading No. 50.04 and 50.05). For these items an optional duty of Nil (without Cenvat credit) or 8% (with Cenvat credit) has been prescribed. (notification Nos. 30/2004-CE and 29/2004-CE refer). The tariff rates for these items have been suitably amended. This will be also the rate for CVD purposes [refer bill entry of the Finance (No.2) Bill, 2004].

14.6 All textiles and textiles articles falling under chapter 50 to 63 have been fully exempted from duties under Additional Excise Duty (Goods of Special Importance) Act and Additional Excise Duty (Textiles and textiles Articles) Act, wherever applicable (notification Nos. 32/2004-CE and 31/2004-CE refer).

14.7 Textile sector (chapters 50 to 63) has been excluded from general SSI exemptions (notification No. 24/2004-CE refers). Exemptions including other clearance based exemptions, presently available on all textiles and textile articles falling under Chapter 50 to 63 have been withdrawn, consequent to introduction of optional duty scheme for the textile sector. Exemption to nylon or poly propylene multifilament yarn of 210 deniers with tolerance of 6% has, however, been continued subject to non-availment of Cenvat credit. (S.No. 7 of notification No. 30/2004-CE refers)

14.8 Manufacture of filament yarns on job work has been excluded from the purview of notification No. 214/86-Central Excise (notification No. 26/2004-CE refers).

14.9 Rule 12 B of the Central Excise Rules, 2002 has been omitted (notification No. 11/2004-CE(NT) refers).

14.10 Provisions relating to endorsement of document under clause (e) of sub-rule (1) of Rule 7 and the provisions relating to transfer of credit by exempted textile manufacturer under rule 8A of the Cenvat Credit Rules have been omitted (notification No. 12/2004-CE(NT) refers).

14.11 In order to assess the impact of the changes made in textile excise duty structure, a study may be conducted by the Commissioners of Central Excise and report as on 15.07.2004, 31.07.2004, 31.08.2004 and 30.09.2004 in the following proforma may be sent to JS (TRU) latest by 17.07.2004, 02.08.2004, 02.09.2004 and 02.10.2004 respectively.

Post budget reports (PBR) [Textiles]

(a) Name of the Commissionerate.

(b) Report as on.

Number of textile manufacturers paying excise duty as on	Total excise duty paid (in Rs. crores) on goods of chapter 50 to 63 during 2003-04. <u>Note:</u> This information may be given chapter-	Number of textile manufacturers paying excise duty as on 15.07.2004 or 31.07.2004 or 31.08.2004 or 30.09.2004 (as the case may be)	Estimated duty payable on clearances made during the months of July or August or September 2004 (as the case may be)*
--	--	--	---

as on 01.07.2004	may be given chapter-wise, in the first report only.	Number of textile manufacturers paying excise duty on manmade fibres (i.e. staple fibres and filament yarns)	Others	Number of textile manufacturers paying excise duty on manmade fibres (i.e. staple fibres and filament yarns)	Others
---------------------	--	--	--------	--	--------

* in reports as on 31.07.2004 31.08.2004 and 30.09.2004 only

15.0 **Chapters 64 to 71**

15.1 The present exemption for footwear of retail sale price not exceeding Rs.125 per pair has been extended to footwear of retail sale price (MRP) not exceeding Rs.250 per pair. However, the exemption will be available only when the MRP is indelibly marked or embossed on the footwear itself. Marking of MRP only on the package containing the footwear will not be sufficient for the purpose of availing this exemption (S.No. 157 of notification No. 6/2002-CE refers as amended by notification No. 23/2004-CE refers).

15.2 Excise duty on specified parts of pre-fabricated buildings (6807.20) namely, blocks, slabs, concrete beams, and stairs of a kind used in the pre-fabricated buildings of heading No. 94.06, has been raised from Nil to the tariff rate of 16% (S.No. 157C of notification No. 6/2002- CE and S.No. 24 of notification No. 10/2003-CE are being omitted *vide* notification No. 23 & 25/2004-CE respectively).

15.3 Excise duty on laboratory glassware (7012.10) has been raised from 8% to the tariff rate of 16% (S.No. 27 of notification No. 10/2003-CE is being omitted *vide* notification No. 25/2004-CE).

15.4 Excise duty on imitation jewellery (7101.50) has been raised from 8% to 16% (S.No. 3 of notification No. 10/2003-CE is being omitted *vide* notification No. 25/2004-CE).

16.0 **Chapters 72 to 83**

16.1 A section note has been inserted in Section XV of the Central Excise Tariff, deeming that the process of drawing or re-drawing of rods, wires or similar material, into wire shall amount to 'manufacture' (bill entry refers). In view of the declaration made under the Provisional Collection of Taxes Act, this provision comes into effect immediately.

16.2 Excise duty on iron and steel falling under chapter 72 has been raised from 8% to 12% (S.No. 172A of notification No. 6/2002-CE as amended by notification No. 23/2004-CE refers).

16.3 Excise duty on gas stoves (7321.10) with an MRP not exceeding Rs. 2000 per unit has been reduced from 16% to 8% (S.No. 290 of notification No. 6/2004-CE as inserted *vide* notification No. 23/2004-CE refers). Consequently the abatement from the retail sale price (RSP) for assessment under section 4A has been revised from 40% to 35% (S.No. 56A of notification No. 13/2002-CE(NT) as amended by notification No. 13/2004-CE(NT) refers).

16.4 Hand tools (82.01) have been fully exempted from excise duty (S.No. 291 of notification No. 6/2004-CE as inserted *vide* notification No. 23/2004-CE refers).

17.0 **Chapters 84 and 85 (including IT/Electronics)**

17.1 Computers are being fully exempted from excise duty from the present 8%. Parts/components manufactured and captively consumed in the factory of production of computers, are also being fully

exempted. 'Computer' for the purposes of the exemption would include a central processing unit (CPU) cleared on a stand alone basis, as well as when cleared together along with a monitor, mouse and keyboard. However, accessories such as monitor, keyboard, mouse, modem, UPS, web camera, etc. cleared separately would not be covered under this exemption (S.No. 261 of notification No. 6/2002-CE as amended *vide* notification No. 23/2004-CE refers).

17.2 Excise duty on monochrome (black and white) televisions (S.No. 4 of notification No. 10/2003-CE omitted *vide* notification No. 25/2004-CE) as well as the chassis (populated PCBs) therefore (S.No. 206 of notification No. 6/2003-CE omitted *vide* notification No. 23/2004-CE) has been raised from 8% to 16%. Monochrome television receivers have also been specified in Schedule III to the Central Excise Act and hence the packing, repacking, etc. of such televisions will now amount to 'manufacture' in terms of section 2(f)(iii) (tariff entry refers). Monochrome televisions have also been brought under RSP based assessment under section 4A with an abatement of 35% (S.No. 85 of notification No. 13/2002-CE(NT) as amended *vide* notification No. 13/2004-CE(NT) refers).

17.3 Milking machines and other dairy machinery (84.34) are being fully exempted from excise duty (S.No. 293 of notification No. 6/2002-CE as inserted *vide* notification No. 23/2004-CE refers).

17.4 Specified machinery (List 32A of notification No. 21/2002-Customs) for plantation sector are being exempted from excise duty. This exemption will be available only upto 30.4.2005 (S.No. 292 of notification No. 6/2002-CE as amended *vide* notification No. 23/2004-CE refers).

17.5 Specific rates prescribed for cases where the colour television sets are cleared without marking of the MRP (or with incorrect marking of MRP) have been withdrawn and colour television sets will now attract a uniform excise duty of 16% (S.No. 204 of notification No. 6/2002-CE has been omitted and S.No. 205 amended *vide* notification No. 23/2004-CE).

18.0 **Chapters 86 to 89**

18.1 Tractors (87.01) have been exempted from excise duty. Parts captively consumed in the factory of the manufacturer of tractors have also been exempted from excise duty (S.Nos. 295 & 296 of notification No. 6/2002-CE inserted *vide* notification No. 23/2004-CE refers. S.No. 213 of the said notification has been omitted).

18.2 Existing concessional rate of excise duty of 16% to ambulances for Government run hospitals, nursing homes has been extended to all ambulances (Condition No. 51(b) of notification No. 6/2002-CE has been omitted *vide* notification No. 23/2004-CE).

19.0 **Chapters 90 to 96**

19.1 Rehabilitation aids and assistive devices for the disabled (specified in List 41 of notification No. 21/2002-Customs) such as talking books, braille computer terminals, Braille writers and typewriters, assistive listening devices, cochlear implants, stair lifts, etc. have been exempted from excise duty (S.No. 294 of notification No. 6/2002-CE as inserted *vide* notification No. 23/2004-CE refers).

19.2 An excise duty of 8% has been imposed on contact lenses (9001.10) (bill entry and S.No. 297 of notification 23/2004-CE refer).

19.3 Excise duty on clocks, watches of retail sale price upto Rs.500 per piece is being raised from 8% to the tariff rate of 16%. Parts of clocks, watches of retail sale price upto Rs.500 per piece will now be liable to the tariff and effective rate of 16% (S.No. 7 of notification No. 10/2003-CE has been omitted *vide* notification No. 25/2004-CE. S.No. 225 of notification No. 6/2002-CE has been omitted *vide* notification No. 25/2004-CE). General SSI exemption has, however, been made applicable to

such clocks and watches. The rate of abatement under section 4A continues at 35% for watches and 40% for clocks.

19.4 An excise duty of 8% has been imposed on playing cards (9504.10) (bill entry refers).

19.5 Excise duty on vacuum flasks (96.17) has been raised from 8% to 16% (S.No. 281 of notification No. 6/2002-CE has been omitted *vide* notification No. 23/2004-CE refers). Consequently the abatement from the retail sale price (RSP) for assessment under section 4A has been revised from 35 % to 40 % (S.No. 92 of notification No. 13/2002-CE(NT) as amended *vide* notification No. 13/2004-CE(NT) refers).

19.6 The value limit for the excise exemption for pens, ball point pens and refills of ball point pens is being raised from Rs. 100 to Rs. 200 per piece. Parts of pens, parts (excluding refills) of ball point pens, and parts of refills of ball point pens, are being fully exempted from excise duty (S.Nos. 229 & 230 of notification No. 6/2002-CE as amended *vide* notification No. 23/2004-CE refer).

19.7 Excise duty on pre-fabricated buildings (94.06) has been raised from 8% to 16% (S.No. 47 of notification No. 10/2003-CE has been omitted *vide* notification No. 25/2004-CE).

EXPLANATORY NOTES (SERVICE TAX)

All the following changes will come into effect on enactment of Finance Bill (No.2), 2004 except those at points (VI), (VII), (VIII) (11), and (VIII) (12) which will come into effect on 9-7-2004.

(I) Education Cess

An Education Cess is being levied on taxable services. It shall be chargeable @ 2% of the service tax. The cess paid on input services shall be available as credit for payment of cess on output services. *[refer clause 81 and 85 of Finance Bill (No.2), 2004]*

(II) Rate and input credit

- Rate of service tax is being raised from 8% to 10%.
- Credit of service tax and excise duty is being extended **across goods and services**. Section 37 of Central Excise Act is being amended to empower Central Government to make rules in this regard.

[refer clause 80 of Finance Bill (No.2), 2004]

(III) Service tax @ 10% is being imposed on the following services:

- (1) Business exhibition services
- (2) Airport services
- (3) Transport of goods by road (by a goods transport agency which issues consignment note, by whatever name called)
- (4) Transport of goods by air
- (5) Survey and exploration of mineral
- (6) Opinion poll services
- (7) Intellectual property services other than copyright
- (8) Forward contract services
- (9) Pandal or shamiana services
- (10) Outdoor catering
- (11) TV or radio programme production
- (12) Construction services in respect of commercial or industrial buildings and civil structures
- (13) Travel agents (other than air/rail travel agents)

[refer clause 80 of Finance Bill (No.2), 2004]

(IV) (1) Service tax on life insurance service is being restricted to the risk cover in life insurance.

- (2) The definition of taxable service, in case of consulting engineers is being amended to exclude computer (hardware/software) engineering from its scope.

[refer clause 80 of Finance Bill (No.2), 2004]

(V) Scope of certain existing services is being extended as follows:

1. Commission and installation of plant, machinery or equipment to include 'erection' thereof.
2. Hitherto service tax is leviable only on the service provided to an investor by a stock broker, other than a sub-broker. The definition of stock-broker is being changed to include

‘sub-broker’ in its scope and the taxable service is being defined as service provided to any person by a stock-broker. Thus the service provided by a sub-broker to his stock-broker will also become taxable. Service tax credit will be available as usual.

3. In case of cable operator service, hitherto tax is on service provided by a cable operator to a customer. The definition is being expanded to include services provided to any person by a cable operator including a multi system operator. Thus the service provided by a multi system operator to a cable operator will also become taxable. Service tax credit will be available as usual.

4. Business auxiliary service also to include services relating to procurement of inputs, production of goods or provision of services on behalf of the client. However, activities amounting to “manufacture”, as per section 2(f) of Central Excise Act, are excluded from the scope of the service tax.

5. Banking and financial services also to include other specified financial services, namely, lending; issue of pay order, demand draft, cheque, letter of credit, bill of exchange; providing bank guarantee, overdraft facility, bill discounting facility, safe deposit lockers or safe vaults; operation of bank accounts. However, the value of taxable service will not include the interest on loans. In addition to banking company, financial institution including a non-banking financing company, body corporates, any other commercial concern providing banking and financial services, will also be covered.

6. Presently tour operator service includes tour or package tour in a tourist vehicle. The scope of the definition of tour operator is being expanded to include persons engaged in the business of planning, scheduling, organizing or arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport.

[refer clause 80 of Finance Bill (No.2), 2004]

(VI) Following service tax exemptions are being withdrawn:

1) Notification No. 56/98-ST dated 7-10-98 is being rescinded, to withdraw the exemption to services in relation to safe deposit lockers provided by security agencies. *[refer notification No.7/2004-ST]*

2) Notification No. 8/2001-ST dated 9-7-2001 is being rescinded, to withdraw exemption to broadcasting service provided by cable operators. *[refer notification No.7 /2004-ST]*

3) Notification No. 20/2003-ST dated 21-8-2003 is being rescinded, to withdraw the exemption to maintenance or repair service in relation to computers, computer systems or computer peripherals. *[refer notification No. 7 /2004-ST]*

4) Notification No. 12/2001-ST dated 20-12-2001 is being amended so as to withdraw full exemption to Mandap keeper services provided by hotels when catering is also provided. In such cases tax will be charged on 60% of the gross value. *[refer notification No.8 /2004-ST]*

5) Notification No. 13/2003-ST dated 20-6-2003 relating to is being amended so as to restrict the exemption only to business auxiliary services provided by commission agents in relation to agricultural produce. *[refer notification No.8 /2004-ST]*

6) Notification No. 2/2004-ST dated 5-2-2004 is being amended so as to reduce the abatement from 90% to 60% in case of tours other than package tours. *[refer notification No.8 /2004-ST]*

(VII) Exemptions:

- 1) Notification No. 9/2004-ST dated 9-7-2004 extends 60% abatement to rent-a-cab scheme operators.
- 2) Notification No.10/2004-ST dated 9-7-2004 extends 40% abatement in convention service when catering is also provided.

(VIII) Changes in Act and Rules:

- 1) Section 67 is being amended to provide that interest on loans will not be included in the value and also to add an explanation to the effect that where the gross amount charged by a service provider is inclusive of service tax payable, the value of taxable service shall be such amount as with the addition of service tax payable thereon, is equal to the gross amount charged. *[refer clause 80 of Finance Bill (No.2), 2004]*
- 2) Sections 71 and 72 are being omitted so as to do away with compulsory verification of assessment by departmental officers and best judgement assessment. *[refer clause 80 of Finance Bill (No.2), 2004]*
- 3) The provisions of section 73 of the Finance Act, 1994, relating to recovery of service tax short levied or short paid or erroneously refunded have been amended to bring them on the lines of section 11A of the Central Excise Act. Consequent changes are also being made in section 74 (relating to rectification of orders), section 78 (which provides for penalty in case of fraud, misstatement etc.) and section 85 {relating to appeals before Commissioner (Appeals)}. *[refer clause 80 of Finance Bill (No.2), 2004]*
- 4) Section 75 which prescribes a rate of interest of 15% per annum on delayed payment of service tax, is being amended empowering the Central Government to notify the rate of interest within a range of 10% to 36% per annum. *[refer clause 80 of Finance Bill (No.2), 2004]*
- 5) Section 75A (which provides for a mandatory penalty for non-registration) and 79 (which provides for penalty for non-compliance of a notice under section 71) are being omitted with consequential amendment in section 80. *[refer clause 80 of Finance Bill (No.2), 2004]*
- 6) Section 77 (which presently provides for penalty for non filing of returns) is being substituted by a section for general penalty of maximum rupees one thousand, for any contravention of the Act or rules for which no separate penalty is provided. In terms of section 80 no penalty shall be imposed in cases of bona fide infringements. *[refer clause 80 of Finance Bill (No.2), 2004]*
- 7) Section 76 is being amended to make it explicit that the minimum penalty for non-payment of tax will be rupees one hundred for every day of failure to pay service tax. *[refer clause 80 of Finance Bill (No.2), 2004]*
- 8) Section 81 dealing with prosecution of companies, being otiose, is being omitted. *[refer clause 80 of Finance Bill (No.2), 2004]*

9) Section 94 is being amended to empower Central Government to make rules for determining export of taxable services, grant exemption or rebate on exported taxable services and rebate of service tax or excise duty on input services and goods. *[refer clause 80 of Finance Bill (No.2), 2004]*

10) Section 95 is being amended to empower Central Government to issue orders for removal of difficulties arising in the implementation of new services within a period of two years from the date of enactment. *[refer clause 80 of Finance Bill (No.2), 2004]*

11) An explanation is being inserted in rule 6 of Service Tax Rules to clarify that in case payment is received in advance, service tax will be payable on *pro rata* basis. *[refer notification No.5 /2004-ST]*

12) Rule 6 of Service Tax Credit Rules has been amended. If the input service supplier has not paid service tax, the Service Tax credit cannot be recovered from the person availing the credit. However, the provisions of sub-rule (2) of rule 5 remain unchanged. Thus the provisions in regard to liability of the persons availing service tax credit have been aligned with CENVAT credit scheme. *[refer notification No.6 /2004-ST]*

POST BUDGET REPORTS:

1. A number of new services are being brought under service tax levy. The scope of some existing taxable services has also been expanded. The field formations should carry out a quick survey in regard to potential new assesseees and their activities in these cases. A report in the following format may be furnished separately for each service (new services as well as where scope has been expanded) by the jurisdictional Commissioners.

PBR(ST-I)

Name of the Commissionerate:

Name of taxable service**:

(A)	Details of activities carried out by the potential assesseees which will be covered in the scope of service tax:	1. 2. 3.
(B)	Number of potential new assesseees:	
(C)	Value of service rendered during 2003-04 (in rupees crore):	

** to be given separately for each service

2. The input tax credit is also being extended across goods and services. In this regard a survey should be conducted in respect of manufacturers of excisable goods and providers of taxable

services (including the potential assesseees). A report in the following format may be furnished by the jurisdictional Commissioners.

PBR(ST-II)

Name of the Commissionerate:

A) Consolidated report in respect of all manufacturers of excisable goods:

S.No.	Description	Amount (rupees in crore)
(A)	Value of excisable goods cleared on payment of duty	
(B)	Excise duty paid in 2003-04	
	(i) PLA	
	(ii) CENVAT credit	
	(iii) Total duty	
(C)	Value of taxable services used in, or in relation to manufacture of excisable goods referred in (A)	
	(i) Telephone	
	(ii) General insurance	
	(iii) Goods transport agency	
	(iv) Business auxiliary services	
	(vi) All other taxable services	

B) In respect of taxable services (new and existing):

(rupees in crore)

S.No.	Name of service	Value of taxable service during 2003-04	Service tax paid (for existing services) during 2003-04	Value of excisable goods used for providing the taxable service

All the above reports must reach Joint Secretary (TRU) latest by 26th July, 2004, positively.