

## EXPLANATORY NOTES

### CUSTOMS

#### I. Additional duty of customs under section 3

Section 3 of the Customs Tariff Act (CTA), 1975 is being substituted *vide* clause 72 of the Finance Bill, 2005. The new section 3, *inter alia*, also enables the Government to impose an additional duty, at a rate not exceeding 4% *ad valorem*, to countervail the sales tax, value added tax, local taxes and other charges leviable on like goods on their sale or purchase or transportation in India. Value for the purposes of the said levy would include the assessable value, basic customs duty, any sum chargeable as a duty of customs under section 12 of the Customs Act and the additional duty of customs leviable under sub-section (1) of section 3 of CTA, but shall exclude the countervailing duty referred to in section 9 of CTA, anti-dumping duty referred to in section 9A of CTA and safeguard duty referred to in sections 8B and 8C of CTA. This new levy will not be included in the assessable value for the purposes of levy of education cess on imported goods (notification No. 20/2005- Customs refers).

The substituted section 3, by virtue of the declaration made in the said Finance Bill under the Provisional Collection of Taxes Act, 1931, has the force of law, and comes into effect immediately w.e.f. 1<sup>st</sup> March 2005.

For the present, this additional duty at 4% has been imposed with immediate effect from 1<sup>st</sup> March 2005 only on items bound under the Information Technology Agreement, and on specified inputs/raw materials for manufacture of electronics/IT goods. However, IT software and documents of title conveying the right to use IT software will not be subject to this levy. It may be noted that except for these goods, this duty will not apply to any other goods for the present (notification No. 19/2005- Customs refers).

The Cenvat Credit Rules, 2004 are being amended to allow domestic manufacturers to take credit of this additional duty of customs for payment of any excise duty on their finished goods. Service providers are not allowed to take credit of this additional duty. Credit of this additional duty can be utilised for payment of excise duty (including special excise duty and additional excise duties) on final products, but not for paying service tax. Credit of this additional duty in respect of capital goods can be taken in one installment (as against two installments in other cases). All provisions relating to Cenvat Credit, including those relating to rebate and refunds are applicable to the this additional duty, as are applicable to the excise duty leviable under the Central Excise Act.

#### II. Peak rate of customs duty

Peak rate of customs duty on non-agricultural goods has been reduced from 20% to 15%, subject to certain exceptions. In general tariff rate is also being reduced to 15%.

### Chapter 1 to 5

No change

## **Chapter 6**

6.1 Customs duty on cut flowers including orchids is being increased from 30% to 60% (relevant bill entry refers).

## **Chapter 7 to 8**

No change

## **Chapter 9**

9.1 The additional duty of customs on tea and tea waste, levied under section 128 of the Finance Act, 2003, is being exempted (notification No. 17/2005-Customs refers). The relevant sections are also being omitted from the Finance Act, 2003 (relevant bill entries refer).

9.2 Customs duty on cloves is being reduced from 70% to 35% (S.No.482 of notification No. 21/2002-Customs as inserted by notification No. 11/2005-Customs refers).

## **Chapter 10 to 12**

No change

## **Chapter 13**

13.1 Customs duty on oleo-pine resin is being reduced from 10% to 5% (S.No. 27 of notification No. 21/2002-Customs as amended by notification No. 11/2005-Customs refers).

## **Chapter 14 to 17**

14.1 Customs duty on molasses is being reduced from 15% to 10% (S.No. 40 of notification No. 21/2002-Customs as amended by the notification No. 11/2005-Customs refers).

## **Chapter 18 to 24**

18.1 Customs duty on denatured ethyl alcohol is being reduced from 15% to 10% (S.No. 50 of notification No. 21/2002-Customs as amended by the notification No. 11/2005-Customs refers).

## **Chapter 25**

25.1 Customs duty on boron ore is being reduced from 15% to 5% (S.Nos.486 of notification No. 21/2002-Customs as inserted by notification No. 11/2005-Customs refers).

## **Chapter 26:**

26.1 Customs duty on ash and residues of zinc and copper is being reduced from 15% to 10% (S.Nos 65 and 66 of notification No. 21/2002-Customs as amended vide notification No. 11/2005-Customs refer).

## **Chapter 27**

27.1 Customs duty on coking coal of high ash content (12% or more) is being reduced from 15% to 5% (S.No. 68A of notification No. 21/2002-Customs as amended by notification No. 11/2005-Customs refers).

27.2 Customs duty on crude petroleum oil and petroleum products has been revised as follows:

| Product                                      | Pre budget | Post Budget |
|--|------------|-------------|
| Crude petroleum oil                          | 10%        | 5%          |
| Petrol and diesel                            | 15%        | 10%         |
| Kerosene (for PDS)                           | 5%         | Nil         |
| Liquified petroleum gases (for domestic use) | 5%         | Nil         |
| Other petroleum products                     | 20%        | 10%         |

(S.Nos. 73, 75E, 487 and 488 of notification No. 21/2002-Customs, as amended vide notification No. 11/2005-Customs refer).

## **Chapter 28 to 39**

28.1 Customs duty on calcined alumina is being reduced from 20% to 10% (S.No 489 of notification No. 21/2002-Customs as amended vide notification No. 11/2005-Customs refers).

28.2 Customs duty on ethylene, propylene, butylene, butadiene, benzene, toluene, o-xylene, styrene, ethylbenzene, ethylene dichloride (EDC), vinyl chloride monomer (VCM) and acrylonitrile is being reduced from 10% to 5%. (S.Nos. 465-476 of notification No. 21/2002-Customs as inserted vide notification No. 11/2005-Customs refers).

28.3 Customs duty on all other organic chemicals, falling under headings 2901 to 2904, is being reduced from 20%/15% to 10%. (S.Nos. 490 of notification No. 21/2002-Customs as inserted vide notification No. 11/2005-Customs refers).

28.3 Customs duty on Alpha Pinene falling under chapters 29 or 38 is being reduced from 15% or 20% to 5%. (S.No 492 of notification No. 21/2002-Customs as inserted vide notification No. 11/2005-Customs refers).

28.4 Customs duty on catalysts falling under heading 3815 is being reduced from 15% to 10%. (S.No. 493 of notification No. 21/2002-Customs as amended vide notification No. 11/2005-Customs refers).

28.5 Customs duty on specified polymers namely LDPE, HDPE, LLDPE, LMDPE, LHDPE (3901), Polymers of propylene (3902 except poly iso butylenes), polymers of styrene (3903) and polymers of vinyl chloride (3904) is being reduced from 15% to 10%. (S.Nos. 477-480 of notification No. 21/2002-Customs as amended vide notification No. 11/2005-Customs refers).

28.6 Customs duty on Ethyl Vinyl Acetate falling under chapter 39 is being reduced from 20% to 10% (S.No. 494 of notification No. 21/2002-Customs as inserted vide notification No. 11/2005-Customs refers).

### **Chapter 40 to 49**

40.1 Customs duty on natural rubber will continue at 70%. Sheets and other forms of natural rubber will continue at 20% (S.No. 491 of notification No. 21/2002-Customs as inserted vide notification No. 11/2005-Customs refers).

40.2 The import duty exemption for specified goods imported for manufacture of the specified leather goods, footwear, etc. for export is being extended to 6 more items (S.No. 167A of notification No. 21/2002-Customs as amended by notification No. 11/2005-Customs refers). However, the exemption will be subject to the existing overall value limit of 3%.

### **Chapter 50 to 63**

50.1 Peak rate of customs duty on all items (except those falling under headings 5001 to 5003, 5101 to 5103 and tariff item 5105 29 10, 5201 to 5203 and 5301 to 5302) is being reduced to 15% (relevant bill entries and notification No. 13 /2005-Customs refer). In case of textile fabrics and garments, which are subjected to a mixed duty of 20% or specific duty, whichever is higher, only the *ad valorem* component has been reduced to 15%. No changes have been made in the specific rate component (relevant bill entries and notification No. 13 & 14/2005-Customs refer).

### **Chapter 64 to 71**

64.1 Customs duties on refractories (6902 and 6903) and specified raw materials for the manufacture of refractory products is being reduced from 15% to 10% (S.No 456 & 448 of notification No. 21/2002-Customs as amended vide notification No. 11/2005-Customs refers).

### **Chapters 72 to 83**

72.1 Customs duty on ferro-alloys (of heading 7202) and stainless steel and other alloy steel (of headings 7218 to 7229), is being reduced from 15% to 10% (S.No 207 of notification No. 21/2002-Customs as amended vide notification No. 11/2005-Customs refers). Seconds and defectives will continue to attract customs duty of 20%. Education cess on imported goods, as applicable, would be payable on seconds and defectives also.

72.2 Customs duty on non-ferrous metals, namely, copper (7401 to 7410), aluminium (7601 to 7607), zinc (7901 to 7905), tin (8001 to 8005) and other base metals (Chapter 81) is being reduced from 15% to 10%. Lead (7801 to 7804) will attract customs duty of 5% (S.Nos. 457 to 461 and 495, 497 of notification No. 21/2002-Customs as amended vide notification No. 11/2005-Customs refer).

72.3 Articles of iron and steel, copper, zinc, other base metals, aluminium (7615) and miscellaneous articles (Chapters 82 and 83) will attract customs duty of 15%. Articles of lead (7805 and 7806) will attract customs duty of 10%. Cermets and articles thereof (8113) will attract 15% duty (notification No. 21/2002-Customs as amended vide notification No. 11/2005-Customs refers).

### **Chapters 84 & 85 (capital goods excluding IT/electronics)**

84.1 Customs duty on textile machinery of headings 8444 to 8452 is being reduced from 20% to 10%, except for some specified machinery (List 49 of notification No. 21/2002-Customs) and certain household type machinery such as washing machines and sewing machines. Customs duty on parts, components and raw materials, irrespective of classification, for the manufacture of such textile machinery is also being reduced to 10% (S.Nos.499 and 500 of notification No. 21/2002-Customs as inserted by notification No. 11/2005-Customs refers). The existing concessional rate of 5% for specified textile machinery and parts under S.Nos. 250, 251 and 252 of notification No. 21/2005-Customs is being continued (proviso in the preamble to notification No. 21/2002-Customs as amended by notification No. 11/2005-Customs refers).

84.2 The concessional customs duty of 5% presently available to mono or bi polar membrane electrolysers and parts thereof including secondary brine purification components, jumper switches, filtering elements for hydrogen filters any other machinery, required for modernization, capacity expansion or setting up of a new caustic soda unit using membrane cell technology, is being extended also to caustic potash units using membrane cell technology (S.No.285 of notification No. 21/2002-Customs as amended by notification No. 11/2005-Customs).

84.3 The time limit for customs duty concession of 5% with Nil CVD on specified machinery (List 32A and S.No. 252A of notification No. 21/2002-Customs as amended *vide* notification No. 11/2005-Customs refer) for use in the plantation sector is being extended for a further period of one year, upto 30.4.2006. Certain technical amendments are also being made in description/classification of items in the said list.

84.4 The concessional customs duty of 5% available on specified capital goods designed for use in the leather or footwear sector (List 34 and S.No. 257 of notification No. 21/2002-Customs as amended *vide* notification No. 11/2005-Customs refer) is being extended to 7 more capital goods. The concession available to moulds for leather footwear is being extended to moulds for non-leather footwear.

84.5 A concessional customs duty of 5% is being prescribed in respect of specified equipment for bio-technology and pharmaceutical sectors. The relevant conditions as for customs duty exemption for specified bio-technology and pharmaceutical sectors are applicable for this concession as well (S.No.248 and List 27A of notification No. 21/2002-Customs, as amended by notification No. 11/2005-Customs refer).

84.6 Customs duty is being reduced from 20% to 10% on parts of printing presses of tariff item 8443 90 10 (S.No. 498 of notification No. 21/2002-Customs as amended by notification No. 11/2005-Customs refers).

84.7 Customs duty is being reduced from 20% to 10% on specified machinery/equipment for Inland Container Depots and Container Freight Stations (S.No.502 of notification No. 21/2002-Customs as inserted by notification No. 11/2005-Customs refers).

84.8 Customs duty on atmospheric water generators is being reduced from 20% to 5%. Customs duty on battery separators (8507 90) is being reduced from 20% to 5% and on graphite electrodes from 15% to 10% (S.Nos. 501, 500 and 342 respectively of notification No. 21/2002-Customs as amended vide notification No. 11/2005-Customs refer)

### **Chapters 84 & 85 (IT/electronics)**

84.9 Customs duty is being exempted on the specified tariff lines covered under the Information Technology Agreement (ITA). With this reduction, customs duty will be exempt on all 217 tariff lines of ITA. All goods imported for the manufacture of ITA bound items, subject to end-use condition will also be exempt from customs duty (notification No. 25/98-Customs as amended by notification No. 18/2005-Customs, No. 24/2005-Customs and No. 25/2005-Customs refer).

84.10 Present customs duty and CVD (i.e., additional duty under section 3(1) of the Customs Tariff Act) exemption on parts, components and accessories of mobile handsets including cellular phones is being continued (notification No. 20/2005-Customs refers). Such parts, components and accessories of mobile handsets will, however, attract the additional duty of customs under section 3(5) of the Customs Tariff Act, 1975.

84.11 Customs duty has been exempted on specified electronic components (Lists 26 and S.No. 244 of notification No. 21/2002-Customs as amended by notification No. 11/2005-Customs refer).

84.12 Certain technical changes have been made in entries relating to inputs/raw materials for electronics/IT industry in notification No. 25/1999-Customs (changes vide notification No. 22/2005-Customs refers). Specified capital goods for electronics/IT industry have been exempted from customs duty (notification No. 25/2002-Customs as amended vide notification No.23/2005-Customs refers). Certain technical changes and end-use extensions have been made in respect of certain items in notification No. 25/2002-Customs.

84.13 The customs duty exemption for specified telecom network equipment and parts thereof, if imported by telecom service providers, is being extended beyond 31.3.2005 without any specific time limit (S.Nos. 239, 240, 241 and 242 of notification No. 21/2002-Customs as amended by notification No. 11/2005-Customs refer).

84.14 As mentioned earlier an additional duty at the rate of 4% under section 3 (5) of the CTA, 1975, is being imposed on items bound under the Information Technology

Agreement (except information technology software), and also on specified inputs/raw materials for manufacture of electronics/IT goods (notification No. 19/2005-Customs refers).

### **Chapters 86 & 87**

86.1 Customs duty on railway locomotives, railway rolling stock and railway equipment and parts thereof (of chapter 86) is being reduced from 20% to 10% (S.No.505 of notification No. 21/2002-Customs as amended *vide* notification No. 11/2005-Customs refers).

86.2 Customs duty on refrigerated motor vehicles for goods transport falling under heading 8704 is being reduced from 20% to 10% (S.No.506 of notification No. 21/2002-Customs as amended *vide* notification No. 11/2005-Customs refers).

86.3 The tariff rate of duty for headings 8703 and 8711 has been reduced from 105% to 100%. Consequently, second hand motor cars and motorcycles would now attract a customs duty of 100% (relevant bill entries and notification No. 13/2005-Customs refer). New cars will, however, continue at 60%.

86.4 Customs duty is being reduced from 20% to 10% on specified parts, if imported for manufacture of battery-operated motor vehicles (S.No.504 of notification No. 21/2002-Customs as amended by notification No. 11/2005-Customs refers).

### **Chapter 90 to 97**

90.1 Customs duty on optical fibres/bundles and optical fibre cables (of heading 9001 10) is being reduced from 20% to 10% (S.No.507 of notification No. 21/2002-Customs as inserted *vide* notification No. 11/2005-Customs refers). Specified items bound under the Information Technology Agreement have been exempted from customs duty.

### **Chapter 98**

98.1 Customs duty on passenger baggage is being reduced from 40% to 35% (notification 136/90-Customs as amended by notification 16/2005-Customs refers).