

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE**

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D.O.F.No.334/1/2007-TRU  
New Delhi, dated the 28<sup>th</sup> February, 2007.

Dear Chief Commissioner/Commissioner,

The Finance Minister has introduced the Finance Bill, 2007 in the Lok Sabha on 28<sup>th</sup> February, 2007. Changes in excise and customs duties have been made through the Finance Bill and through Notification Nos.20/2007-Customs to 34/2007-Customs, 3/2007-CE to 18/2007-CE, and 8 /2007-CE (NT) to 14/2007-CE (NT), all dated 1st March, 2007. Details of the changes are available in the Explanatory Notes. Salient features of these changes in respect of excise and customs duties are indicated below. For full details, relevant provisions of the Finance Bill and the notifications should be referred to.

**I. Secondary and Higher Education Cess [Clauses 126, 128 and 129 of Finance Bill]**

2.1 A Secondary and Higher Education Cess at the rate of 1% of the aggregate duties of customs, excise and service tax has been imposed. The proceeds from this cess will be utilized to finance secondary and higher education. This will be in addition to the 2% Education Cess imposed in 2004 budget. While the cess will apply in respect of customs and excise duties with effect from 1.3.2007, in respect of service tax, it will come into effect on enactment of the Finance Bill, 2007.

2.2 In the case of customs duties, the Secondary and Higher Education Cess on imported goods will be 1% of the aggregate duties of customs, (but excluding safeguard duty under section 8B and 8C, countervailing duty under section 9, Anti Dumping Duty under section 9 A of the Customs Tariff Act and the two Education Cesses). Items attracting customs duty at bound rates, for example, under the IT Agreement or the Indo-US/Indo-EU Textile Agreement have been exempted from this cess. Suitable provision has been made in the Finance Bill, 2007 (and by notification to cover the period till the date of enactment of the finance Bill) to provide that for calculating the Education Cess of 2004, inter alia, the Secondary and Higher Education cess will not be taken into account. The method of calculation of the Secondary and Higher Education cess will be the same as in the case of Education Cess introduced in 2004 budget.

2.3 In the case of excise duties, Secondary and Higher Education Cess on excisable goods will be chargeable on the aggregate duties of excise (excluding Education cesses) leviable on such goods. The method of calculation of the Secondary and Higher Education cess will be the same as in the case of Education Cess introduced in 2004 budget. Suitable provision has been made in the Finance Bill, 2007 (and by notification to cover the period till the date of enactment of the Finance Bill) to provide that for calculating the Education Cess of 2004, the Secondary and Higher Education cess will not be taken into account. Necessary amendments have been made in the Cenvat Credit Rules, 2004 to allow credit of this Education Cess paid on inputs and capital goods, which can be utilized for payment of Education cesses only.

## **II. CUSTOMS**

### **3. Export Duty [Clause 105 (ii) of the Finance Bill]:**

3.1 An export duty @ Rs.300 per metric tonne has been imposed on iron ores and concentrates, all sorts. This will cover all iron ores, whether in the form of lumps or fines.

3.2 An export duty @ Rs.2000 per metric tonne has been imposed on chromium ores and concentrates, all sorts. This will cover all chrome ores, whether in the form of lumps or fines. Both the export duties come into effect immediately.

3.3 **Chief Commissioners are requested to send a monthly report on revenue from export duties in respect of Commissionerates under their jurisdiction (Annexure V).**

### **4. Peak rate of Duty**

4.1 Peak rate of customs duty on non-agricultural goods has been reduced from 12.5% to 10% with a few exceptions. As regards textiles, only the ad valorem component has been reduced to 10%, the specific component, wherever applicable, remaining unchanged. The tariff rates in general are being amended accordingly. Since the reduction in tariff rates will come into effect only on enactment of the Finance Bill, 2007, the effective rates are being prescribed through notifications. I would also like to bring to your notice that it is quite likely that a commodity may be covered under more than one notification attracting different rates of duties. In such cases, the benefit of lower rate of duty cannot be denied to the assessee as per various judicial pronouncements on the subject.

### **5. 4% Additional Duty of Customs**

5.1 All edible grade vegetable oils, and their edible grade fractions falling under 15.07 to 15.15 have been exempted from additional duty of customs of 4%. Roasted molybdenum ore and concentrate has also been exempted from this levy.

5.2 Cell phone parts, components and accessories are exempt from additional duty of customs of 4% till 30.04.2007. The exemption has been extended till 30.06.2009.

### **6. Metals:**

Customs duty has been reduced from 20% to 10% on seconds and defectives of iron and steel.

### **7. Aircrafts:**

7.1 Customs duty has been imposed on aircrafts @ 3%. CV duty of 16%, by way of excise duty, and special additional duty of customs of 4% has also been imposed on such aircrafts. Parts of such aircrafts will also attract these duties. Imports by scheduled airline operators will, however, be exempt. Imports by the Government and PSU's will continue to be exempt (vide S. No.10 of Notification No.39/96-Customs).

7.2 Aircrafts, not registered in India, on flight to or across India and ultimately removed within six months from the date of arrival will be exempt from all duties of customs.

8. **Chemicals and Petrochemicals:**

8.1 Customs duty has been reduced from 12.5% to 7.5% on goods falling under Chapter 28 (except Titanium Dioxide which will attract customs duty at 10%), Chapter 29 (except Mannitol, Sorbitol and Caprolactam) and Chapter 31.

8.2 Customs duty has been reduced from 12.5% to 7.5% on goods falling under headings 3201 to 3207 (except pigments and preparations based on Titanium Dioxide, which will attract customs duty at 10%).

8.3 Customs duty has been reduced from 12.5% to 7.5% on goods falling under heading 3403.

8.4 Customs duty has been reduced from 12.5% to 7.5% on goods falling under headings 3801 to 3807 and 3809 (with few exceptions), 3810, 3812, 3816, 3817, 3821 and 3824 (except 3824 60).

8.5 Customs duty has been reduced from 12.5% to 7.5% on goods falling under headings 3901 to 3907 and 3909 to 3915.

8.6 Customs duty has been reduced on glycerol waters and glycerol lyes from 30% to 20%.

8.7 Customs duty has been reduced on denatured ethyl alcohol from 10% to 7.5%.

9. **Agriculture:**

9.1 Customs duty has been reduced from 7.5% to 5% on:

- a) food processing machinery; and
- b) sprinklers and drip irrigation systems used for agricultural and horticultural purpose.

9.2 Concessional rate of 5% customs duty plus Nil CVD/excise duty presently available to specified plantation machinery upto 30.04.2007, has been extended upto 30.04.2009.

9.3 Customs duty has been reduced on crude sunflower oil from 65% to 50% and on refined sunflower oil from 75% to 60%.

10. **Textiles:**

10.1 Customs duty on polyester staple fibres and tow, polyester filament yarns and polyester chips has been reduced from 10% to 7.5%.

10.2 Customs duty on DMT, PTA and MEG has been reduced from 10% to 7.5%.

11. **Export Promotion:**

- 11.1 Customs duty on cut and polished diamonds has been reduced from 5% to 3%.
- 11.2 Customs duty on rough synthetic gemstones has been reduced from 12.5% to 5%.
- 11.3 Customs duty has been reduced on unworked or simply prepared corals from 30% to 10%.
- 11.4 Raw, tanned or dressed fur skins have been exempted from CV duty of 8%.

12. **Research & Development**

12.1 The concessional rate of 5% customs duty plus Nil CV duty on specified items, available to public funded research institutions and non-commercial research institutions, has been extended to all research institutions (other than hospitals) registered with Department of Scientific & Industrial Research subject to certain conditions.

12.2 The concessional rate of 5% customs duty available on specified items for pharmaceutical and biotechnological sector when imported for R&D purposes, by an importer or a manufacturer having an R&D wing, registered with Department of Scientific & Industrial Research, is being extended to 15 additional items.

13. **Health:** Customs duty on medical equipment has been reduced from 12.5% to 7.5%.

14. **Project Import:** Digital Cinema Development Projects have been notified as project imports under Heading 9801, and will thus attract the project rate of 7.5%

15. **Miscellaneous:**

15.1 Customs duty has been reduced from 5% to Nil on dredgers. Since dredgers are exempt from excise/CV duty, dredgers will be exempt from the 4% additional duty of customs.

15.2 Customs duty has been reduced from 5% to 2% on natural boron ore.

15.3 Customs duty has been reduced from 10% to 5% on:

- a) borax or boric acid;
- b) butyl rubber; and
- c) frit.

15.4 Customs duty has been reduced from 12.5% to 5% on:

- a) ceramic colours;
- b) watch dials and movements; and
- c) parts of umbrella, including umbrella panels.

15.5 Customs duty has been reduced from 30% to 20% on:

- a) dammar batu;
- b) dextrose monohydrate; and
- c) dog or cat food.

15.6 A uniform customs duty rate of 5% has been prescribed for urea unconditionally.

15.7 Aramid yarns for manufacture of bulletproof jackets for supply to the Armed Forces have been exempted from both customs duty and CV duty.

15.8 Coking coal of high ash content of 12% or more has been exempted from customs duty.

15.9 Customs duty has been reduced from 7.5% to 5% on machinery for manufacturing of particle board, fibre board, etc.

16. **Withdrawal of Exemptions:**

- 16.1 Customs duty exemptions/concessions on following items have been withdrawn:
- a) Chemicals, for use in the manufacture of Centchroman;
  - b) Codeine phosphate or Narcotine, imported by Government alkaloid factories;
  - c) Recorded magnetic tapes for producing TV serials;
  - d) Specified goods like TV cameras (professional grade), audio recording equipment, tabletop desk production video machine, 8 channel video mixer/switches etc.;
  - e) Specified goods for manufacture of fly ash based goods.

III. **CENTRAL EXCISE**

17. **Relief Measures:**

- 17.1 Excise duty has been fully exempted on:
- (a) Packed biscuits of per Kg. retail sale price equivalent not exceeding Rs.50;
  - (b) Food mixes (including instant food mixes);
  - (c) Specified water purification equipment based on membrane technology;
  - (d) Household water filters not using electricity and pressurised tap water;
  - (e) Biodiesels.
- 17.2 Excise duty has been reduced from 16% to 8% on:
- (a) umbrellas;
  - (b) plywood, veneered panels and similar laminated wood falling under heading 4412;
  - (c) footwear parts/components falling under heading 6406; and wadding, gauze.

18. **Petroleum:** Ad valorem component of excise duty on petrol and diesel has been reduced from 8% to 6%.

19. **Textiles:**

19.1 Excise duty has been reduced from 16% to 12% on caprolactam, nylon chips and benzene for manufacture of caprolactam.

19.2 Optional excise duty at 12% has been prescribed on fishnet grade nylon yarns (yarns of 210 deniers and multiples thereof), nylon fishnet fabrics and fishnets.

19.3 Full exemption from excise duty on specified textile machinery has been withdrawn and an excise duty of 8% has been imposed thereon.

20. **Small Scale Industries:** Exemption limit under the SSI scheme has been increased from Rs 1 crore to Rs.1.5 crore. This will be effective from 1.4.2007.

21. **Research & Development:** Exemption from excise duty has been extended to specified items when domestically procured by research institutions (other than hospitals) registered with Department of Scientific & Industrial Research, for the purpose of research, subject to certain conditions

22. **Metals:** The rate of compounded levy on aluminium circles has been increased from Rs.7500/10000 per machine per month to Rs.12000 per machine per month.

23. **Information Technology:**

23.1 'USB flash memory' is exempt from excise duty. The exemption has now been extended to 'flash memory' in general.

23.2 'DVD drive' is exempt from excise duty. The exemption has now been extended to 'DVD drive/DVD writer'.

24. **Tobacco products:**

24.1 Specific rates of excise duty on cigarettes have been revised as under:

S. No.	Description	Present rate	Proposed rate
	<b>Non-Filter Cigarettes</b>	(Rs. per 1000)	
1	Not exceeding 60 mm in length	160	168
2	Exceeding 60 mm but not exceeding 70 mm	520	546
	<b>Filter Cigarettes</b>		
3	Not exceeding 70 mm in length	780	819
4	Exceeding 70 mm but not exceeding 75 mm	1260	1323
5	Exceeding 75 mm but not exceeding 85 mm	1675	1759
6	Other cigarettes	2060	2163
7	Cigarettes of tobacco substitutes	1150	1208

24.2 Specific rates of excise duty on biris (including cess) have been revised as under:

- (a) Biris, other than paper rolled and manufactured without the aid of machines, from Rs.12 to Rs.16 per thousand.
- (b) Other biris from Rs.22 to Rs.29 per thousand.

24.3 The exemption limit of 20 lakh unbranded biris in a financial year will now be subject to the condition that a manufacturer wanting to avail of the exemption has to file a prescribed declaration with the Central Excise Department. For availing of the exemption in the month of March, 2007, the manufacturer has to give the declaration by 31<sup>st</sup>, March, 2007. From next financial year, the declaration has to be filed by the 30<sup>th</sup> April. Detailed instructions for monitoring of this exemption are being issued by the Board. It may be ensured that there is no harassment and the manufacturers are given necessary guidance in this regard.

24.4 Excise duty on pan masala not containing tobacco, falling under 2106 90 20, has been reduced from 66% to 45%. Consequently, the abatement from maximum retail sale price has been reduced from 50% to 44%.

25. **Cement:** Dual rates of excise duty have been prescribed on cement as under:

25.1 General rate (other than mini cement plants)

25.1.1 Excise duty has been reduced from Rs.400 per metric tonne to Rs.350 per metric tonne for cement of declared retail sale price not exceeding Rs.190 per 50 Kg. bag or per metric tonne retail sale price equivalent not exceeding Rs.3800.

25.1.1 Excise duty has been increased from Rs.400 per metric tonne to Rs.600 per metric tonne for cement of declared retail sale price exceeding Rs.190 per 50 Kg. bag or per metric tonne retail sale price equivalent exceeding Rs.3800.

25.1.3 For cement in respect of which no RSP is required to be declared and thus no RSP is declared, the rates will be Rs 400 per metric tonne.

## 25.2 Mini cement plants

25.2.1 Excise duty has been reduced from Rs.250 per metric tonne to Rs.220 per metric tonne for cement of declared retail sale price not exceeding Rs.190 per 50 Kg. bag or per metric tonne retail sale price equivalent not exceeding Rs.3800.

25.2.2 Excise duty has been increased from Rs.250 per metric tonne to Rs.370 per metric tonne for cement of declared retail sale price exceeding Rs.190 per 50 Kg. bag or per metric tonne retail sale price equivalent exceeding Rs.3800.

25.3 For cement in respect of which no RSP is required to be declared and thus no RSP is declared, the rate will be Rs 250 per metric tonne.

25.4 It has also been provided that if a bulk package, which does not have RSP, declared on it contains a number of smaller packs with RSP declared on such smaller packs, then assessment will be done on the basis of such declared RSP. It has also been provided that if the bulk package also carries a sale price, per tonne equivalent of which is different from the per tonne equivalent of RSP declared on the smaller packs, then the higher of the two per tonne price equivalents will be relevant for assessment.

25.5 Cement has been included in Third Schedule of the Central Excise Act to provide that in relation to products of sub-heading 252329, packing or repacking in unit container, labelling or relabelling of packages, including the declaration or alteration of RSP on it or adoption of any other treatment to render the product marketable to the consumer, shall amount to 'manufacture'. This provision comes into effect immediately.

25.6 There is no change in excise duty on cement clinkers. Excise duty rates of Rs.400 PMT and Rs.250 PMT on cement cleared in bulk from general cements plants and mini cement plants respectively, also remain unchanged.

## 26. **Retail Sale Price (RSP) Based Assessment:**

26.1 RSP based assessment will be extended from a date to be notified to:

- (a) Personal computers (including lap tops)
- (b) Computer printers
- (c) Computer monitors
- (d) Computer key boards
- (e) Scanners
- (f) Computer mouse
- (g) Ink cartridge with print head assembly
- (h) Fax machines
- (i) Modems
- (j) Set top boxes for gaining access to internet
- (k) Set top boxes for television sets

26.2 Third Schedule of the Central Excise Act is being amended so as to include these items.

27. **Water Supply Projects:**

27.1 The exemption from excise duty at present available for pipes used in taking water from water treatment plant, to the first storage point is being continued. It has also been clarified that the concession will be available for taking water from the clear (treated) water reservoir attached to the water treatment plant to the first storage point.

27.2 In addition, exemption has now been extended to all pipes of outer diameter exceeding 20 centimeter, when such pipes are integral part of the water supply project. The exemption will be available irrespective of whether such pipes are used for taking water from treatment plant to the first storage point or from one storage point to another storage point.

28. **Withdrawal of Exemptions:**

28.1 Excise duty exemptions/concessions have been withdrawn on following items:

- a) Chemical reagents manufactured by Hindustan Antibiotics Ltd. For use in manufacture of kits for testing narcotics drugs and psychotropic substances;
- b) Optical glass manufactured by the Central Glass and Ceramic Research Institute, Kolkata for use by any Department of the Central Government;
- c) Goods like brooms, hand operated mechanical floor sweepers, mops, feather dusters, prepared knots and tufts of broom or brush; pain pads & rollers, squeezes etc.;
- d) Recorded video cassettes intended for television broadcasting, supplied in formats such as U-matic, Betacam or any similar format;
- e) Nicotine polacrilex gum;
- f) Dust and powder of synthetic stones;
- g) Cold-set high speed printing machines;
- h) Specified parts of set top boxes.

28.2 Excise duty exemption (vide notification no 8/2004-CE) on pan masala containing tobacco and other tobacco products manufactured in the North East Region has been withdrawn in respect of clearances made on or after 1.3.2007. In respect of clearances prior to 1.3.2007 the exemption availed of would be protected but only if the conditions in the relevant notification are satisfied.

29. **Other Amendments in Customs Act and Central Excise Act:**

**[To come into effect on enactment of Finance Bill, unless otherwise specified]**

- a) As per sub-section (1) of section 14 of the Customs Act, 1962, valuation of goods is based on the concept of 'deemed value'. Sub-section (1A) of section 14 provides that valuation of imported goods shall be based on the concept of 'transaction value'. To remove this contradiction, existing section 14 is being substituted by a new section 14. The new section provides that the value of imported goods and export goods shall be the transaction value of such goods, as determined in accordance with the rules made in this behalf. Moreover, transaction value of imported goods shall include any amount that the buyer is liable to pay for costs and services, including commissions and brokerages,

assists, engineering, design work, royalties and license fees, costs of transportation to the place of importation, insurance and handling charges. Further, where there is no sale or the transaction value of the imported goods or export goods is not determinable, the value of such goods shall be determined in accordance with the rules made in this behalf. This change will come into effect from a date to be notified after enactment of Finance Act, 2007.

- b) Section 27 of the Customs Act, 1962 provides that a refund claim shall be made within a period of six-months/one year from the relevant date. This section is being amended by inserting a proviso in sub-section (1) to provide that the relevant date for the purpose of refund of duty in consequence of any judgement, decree, order or direction of appellate authority, Appellate Tribunal or any court shall be the date of such judgement, decree, order or direction.
- c) Section 28E I (ii) of the Customs Act, 1962 defines an “applicant” who is entitled to seek Advance Ruling. Under this section ‘applicant’ includes a “joint venture in India”. This section is being amended by inserting an Explanation in clause I so as to clarify that ‘joint venture in India’ means a venture in which at least one of the participants, partners or equity holders is a non-resident having substantial interest in the joint venture and exercising joint control over it.
- d) Section 75A of the Customs Act, 1962 deals with payment of interest on drawback paid to a claimant erroneously. It provides that in addition to payment of said amount of drawback, the claimant shall pay interest at the rate fixed under section 28AA, within a period of two months from the date of demand. Sub-section (2) of Section 75A is being amended to provide that in case of erroneous refund, the interest shall be charged at the rate fixed under section 28AB, from the date of payment of drawback till the date of recovery of such drawback.
- e) Prior to operationalisation of Special Economic Zone (SEZ) Act, 2005, the scheme of SEZs was implemented through Chapter XA of the Customs Act, 1962, and the rules notified under the said Act. In view of the specific legislation covering SEZs, Chapter XA of the Customs Act, 1962 has become redundant. Customs Act, 1962 is accordingly being amended to omit Chapter XA of the said Act.
- f) Section 127A of the Customs Act, 1962 is being amended so as to provide that an applicant can file an application before the Settlement Commission only in respect of cases pending before the adjudicating authority. It further provides that in respect of cases referred back by the Appellate Tribunal, Court or any other authority to the adjudicating authority for fresh adjudication, the applicant shall not be entitled to file an application;
- g) Section 127B of the Customs Act, 1962 is being amended so as to provide that an applicant shall be eligible to file an application in respect of cases in which he admits short levy on account of misclassification, under valuation, inapplicability of exemption notification but not in respect of the goods not included in the Bill of entry or Shipping Bill, as the case may be. It further provides that while filing any application, he shall deposit the additional amount

of customs duty accepted by him along with stipulated interest due thereon. It also proposes to enhance the minimum settlement amount from Rs.2 lakh to Rs.3 lakh. It also provides that in respect of an application filed before 1.06.2007, but pending issuance of an order by the Commission, the applicant shall pay the accepted duty by 30.06.2007, failing which the application shall be rejected;

- h) Section 127C of the Customs Act, 1962 is being amended so as to specify time limit at every stage for disposal of the application filed before the Settlement Commission. It, inter alia, provides that in respect of an application filed on or before 31<sup>st</sup> May, 2007, the order shall be passed by 29<sup>th</sup> February, 2008, and in respect of application made on or after 1<sup>st</sup> June, 2006, the order should be passed within 9 months of the application. It also provides that amount of settlement ordered by the Commission shall in no case be less than duty liability admitted by the applicant. It further provides that the settlement amount shall be paid within 30 days of the receipt of the order and no extension for payment of this amount shall be granted by the Commission;
- i) Section 127E of the Customs Act, 1962 is being amended with a view to debar the Settlement Commission from re-opening the completed proceedings in respect of applications received on or after 1.6.2007;
- j) Section 127F of the Customs Act, 1962 is being amended so as to make consequential changes in view of the amendments made in section 127C;
- k) Section 127H of the Customs Act, 1962 is being amended so as to debar the Settlement Commission from granting immunity from prosecution for any offence under Indian Penal Code or any Central Act for the time being in force other than Customs Act. It also provides that the Settlement Commission shall not have power to grant immunity from payment of interest as provided under this Act. It further provides that applications pending before the Settlement Commission on 31.05.2007 shall be decided in accordance with the existing provisions;
- l) Section 127J and 127K of the Customs Act, 1962 are being amended so as to make consequential changes in view of the amendments made in section 127C;
- m) Section 127L of the Customs Act, 1962 is being amended so as to provide that an applicant can apply for settlement only once during his lifetime so that the scheme of settlement is not treated as a permanent amnesty scheme by the tax evaders. It also provides that in respect of cases involving identical recurring issue, the applicant can file application for settlement provided that his earlier application is pending before the Settlement Commission;
- n) Section 127MA of the Customs Act, 1962 is being omitted as it has outlived its utility;
- o) Section 129 of the Customs Act, 1962 is being amended by inserting a new sub-section (6) therein with a view to debar the President, Vice-President or other

Member of the Customs, Excise and Service Tax Appellate Tribunal from appearing, acting or pleading before the said Tribunal on ceasing to hold office.

- p) Section 129D of the Customs Act, 1962 is being amended so as to provide that the Committee of Chief Commissioners or the Commissioners shall review the orders of the Commissioner or adjudicating authorities below the rank of Commissioner within a period of three months as against the present period of one year from the date of communication of the decision or order of the Adjudicating Authority. It is also proposed to reduce the time available under sub-section (4) for authorized officer to file appeal before the Appellate Tribunal or the Commissioner (Appeals), as the case may be, from three months at present to one month.
- q) In view of the specific legislation covering Special Economic Zones, sub-section (1) of Section 3 of the Central Excise Act, 1944 is being amended to omit the provisions relating to 'free trade zone' and substitute the meaning of 'special economic zone' so as to harmonize the said provisions with the Special Economic Zone Act, 2005.
- r) Section 11B of the Central Excise Act, 1944 provides that an application for refund of duty should be made before the expiry of one year from the relevant date. This section is being amended by inserting a new sub-clause (ec) in clause (B) of Explanation to provide that the relevant date for the purpose of refund of duty in consequence of judgement, decree, order or direction of appellate authority, Appellate Tribunal or any court, shall be the date of such judgement, decree, order or direction.
- s) Section 23A I of the Central Excise Act, 1944 act defines an "applicant" who is entitled to seek Advance Ruling. Under section 32AI (ii), applicant includes a joint venture in India. This section is being amended by inserting an Explanation in clause I so as to clarify that 'joint venture in India' means a venture in which at least one of the participants, partners or equity holders shall be a non-resident having substantial interest in the joint venture and exercising joint control over it.
- t) Section 31 of the Central Excise Act, 1944 is being amended so as to provide that an applicant can file an application before the Settlement Commission only in respect of cases pending before the adjudicating authority. It further provides that in respect of cases referred back by the Appellate Tribunal, Court or any other authority to the adjudicating authority for fresh adjudication, the applicant shall not be entitled to file an application;
- u) Section 32A of the Central Excise Act, 1944 is being amended so as to empower the Chairman, Settlement Commission to constitute a Bench consisting of three Members and the senior among the Members shall act as the presiding officer of the Bench, if the Vice-Chairman is not one of the Members;
- v) Section 32E of the Central Excise Act, 1944 is being amended so as provide that the applicant shall be eligible to file an application in respect of the case in which he admits short levy on account of misclassification, under valuation,

inapplicability of exemption notification or CENVAT credit but not in respect of the goods for which he had not filed a return. It further provides that while filing any application, he shall deposit the additional amount of excise duty accepted by him along with stipulated interest due thereon. It also proposes to enhance the minimum settlement amount from Rs.2 lakh to Rs.3 lakh. It also provides that in respect of an application filed before 1<sup>st</sup> June, 2007, but pending issuance of an order by the Commission, the applicant shall pay the accepted duty by 30<sup>th</sup> June, 2007, failing which the application shall be rejected;

- w) Section 32F of the Central Excise Act, 1944 is being amended so as specify time limit at every stage for the disposal of the application filed before the Settlement Commission. It, inter alia, provides that in respect of an application filed on or before 31<sup>st</sup> May, 2007, the order shall be passed by 29<sup>th</sup> February, 2008, and in respect of application made on or after 1<sup>st</sup> June, 2006, the order should be passed within 9 months of the application. It also provides that amount of settlement ordered by the Commission shall in no case be less than duty liability admitted by the applicant. It further provides that the settlement amount shall be paid within 30 days of the receipt of the order and no extension for payment of this amount shall be granted by the Commission;
- x) Section 32H of the Central Excise Act, 1944 is being amended with a view to debar the Settlement Commission from re-opening the completed proceedings in respect of applications received on or after 1.6.2007;
- y) Section 32 I of the Central Excise Act, 1944 is being amended so as to make consequential changes in view of the amendments made in section 32F;
- z) Section 32K of the Central Excise Act, 1944 is being amended so as to debar the Settlement Commission from granting immunity from prosecution for any offence under Indian Penal Code or any Central Act for the time being in force other than Central Excise Act. It also provides that the Settlement Commission shall not have the power to grant immunity from payment of interest as provided under this Act. It further provides that the applications pending before the Settlement Commission on 31<sup>st</sup> May, 2007 shall be decided in accordance with the existing provisions;
- aa) Section 32M and Section 32N of the Central Excise Act, 1944 are being amended so as to make consequential changes in view of the amendments made in section 32F;
- bb) Section 32 O of the Central Excise Act, 1944 is being amended so as to provide that an applicant can apply for settlement only once during his lifetime so that the scheme of settlement is not treated as a permanent amnesty scheme by the tax evaders. It also provides that in respect of cases involving identical recurring issue, the applicant can file application for settlement provided that his earlier application is pending before the Settlement Commission;
- cc) Section 32PA of the Central Excise Act, 1944 is being omitted as it has outlived its utility;

- dd) Section 35E of the Central Excise Act, 1944 is being amended so as to provide that the Committee of Chief Commissioners or the Commissioners shall review the orders of the Commissioner or adjudicating authorities below the rank of Commissioner within a period of three months as against the present period of one year from the date of communication of the decision or order of the Adjudicating Authority. It is also proposed to reduce the time available for authorized officer to file appeal before the Appellate Tribunal or the Commissioner (Appeals), as the case may be, from three months at present to one month.
  - ee) Section 35F of the Central Excise Act, 1944, inter alia, provides that where in any appeal, the decision or order appealed against relates to any duty demanded, the person appealing against such decision or order shall deposit first the duty demanded. This section is being amended so as to insert an Explanation therein with a view to widen the scope of expression 'duty demanded'. The proposed amendment provides for inclusion of amount determined under section 11D; amount of erroneous CENVAT credit taken; amount payable under rule 57CC of Central Excise Rules, 1944; amount payable under rule 6 of Cenvat Credit Rules, 2001 or Cenvat Credit Rules, 2002 or Cenvat Credit Rules, 2004; interest payable under the provisions of this Act or the rules made thereunder; within the ambit of expression 'duty demanded' in addition to the duty specified under section 3 of the said Act for the purpose of predeposit, pending appeal, under section 35F of the Act.
  - ff) Section 37 (4) of the Central Excise Act, 1944 provides that if any manufacturer, producer or licensee of a warehouse contravenes any of the provisions stipulated therein, then such person, inter alia, will be liable to a penalty not exceeding duty leviable on such goods or ten thousand rupees, whichever is higher. This section is being amended so as to reduce the penalty from Rs.10000 to Rs.2000 for possessing, transporting, removing, depositing, keeping, concealing, selling or purchasing any excisable goods which are liable to confiscation. Similarly, section 37 (5) is also being amended to reduce the penalty from Rs.10000 to Rs.2000.
- 30) The Central Excise Rules, 2002 have been amended as under **(with immediate effect)**:
- a) An explanation has been inserted in rule 8 to provide that for the purposes of this rule, the expressions 'duty' or 'duty of excise' shall also include the 'amount' payable in terms of the CENVAT Credit Rules, 2004. Therefore, all amount payable like payment under rule 6 (3) of the CENVAT Credit Rules, 2004 etc., can be paid along with duty payable by 5<sup>th</sup> or 15<sup>th</sup> of the next month;
  - b) Rule 8 has been further amended to make e-payment mandatory for payment of duty by all assesseees who have paid excise duty of rupees 50 lakh or more in cash during the preceding financial year. This provision would come into effect from 01.04.2007;

- c) Sub-rule (2) of rule 11 has been amended to provide that the invoice shall also contain address of the jurisdictional Central Excise Division. This change will come into force from 01.04.2007;
  - d) Rule 21 has been amended to increase the power of remission given to various officers of central excise.
  - e) Rules 25 & 26 are being amended to reduce the minimum penalty from the present level of rupees ten thousand to rupees two thousand. This change will be effective on enactment of Finance Act, 2007.
  - f) A new sub-rule (2) has been inserted in rule 26 to provide for penal action against the person who issues CENVAT invoices without delivery of goods mentioned therein and also against the person who is involved in fabricating Central Excise documents or any other document like shipping bill, bill of lading, etc., based on which the user of said document is likely to take or has taken any ineligible benefits like CENVAT credit, refund, etc.;
- 31) The CENVAT Credit Rules, 2004 have been amended as under (**with immediate effect**):
- a) Necessary amendments have been made in the Cenvat Credit Rules, 2004 to allow credit of Secondary and Higher Education Cess paid on inputs and capital goods, which can be utilized for payment of Education cesses only.
  - b) Sub-rule (2) of rule 9 has been amended to provide that the CENVAT credit can be taken if all the particulars as prescribed under the rules are available on the invoice or other duty-paying document. Further, in case any of the required particulars (other than specified particulars) are not available on the document, the Assistant/Deputy Commissioner may allow the credit subject to his satisfaction that (i) goods/services covered by said document has been received by the assessee, and (ii) the receipt of said goods/services has been accounted for in the books of accounts of the receiver. Consequential amendments have also been made in rule 15(1) and 15(3), which provides for penal action. Sub-rule (3) of rule 9 has been deleted;
  - c) Sub-rule (11) has been inserted in rule 9 so as to allow an assessee to rectify mistakes and file revised return within 60 days from the date of filing of original return, subject to specified conditions;
  - d) New sub-rules (3) & (4) have been inserted in rule 11 to provide that when a person opts for exemption from whole of duty (in case of conditional notification) or where a product becomes exempted absolutely, in such cases, the CENVAT credit taken on inputs lying in stock, or in process or contained in the final product lying in stock should be reversed. Similar provision has been made in respect of cases wherein taxable service becomes exempted. However, no reversal of credit of input services is required to be made in such cases.

32. **Job work valuation:**

32.1 A new rule 10A has been inserted in the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 to provide that where goods are manufactured by a job-worker on behalf of a person (commonly known as principal manufacturer), the value for payment of excise duty would be based on the sale value at which the principal manufacturer sells the goods, as against the present provision where the value is taken as cost of raw material plus the job charges.

32.2 The liability to pay duty will rest with the job-worker as per the present practice. The value in such cases shall be:

- (a) the 'transaction value of the goods at which they are sold' by the principal manufacturer for delivery at the time of removal of goods from the factory of job-worker, provided that the principal manufacturer and the buyer of the goods are not related and that the price is the sole consideration for the sale.
- (b) the 'normal transaction value of goods sold at or about the same time', when sold by the principal manufacturer from a place other than the factory of job-worker, provided that the principal manufacturer and the buyer of the goods are not related and that the price is the sole consideration for the sale. This methodology is similar to valuation in case of sale through depot.
- (c) Determined in accordance with the principles enunciated in the Valuation Rules, for cases not covered under (a) and (b) above, on a case-to-case basis. For example, if the excisable goods manufactured on job-work are sold by the principal manufacturer where the price is not the sole consideration for sale, the value of such goods shall be determined in terms of principles laid down in rule 6.

32.3 It has also been provided in the rule that the cost of transportation from the premises, wherefrom the goods are sold, to the place of delivery shall not be included in the value of excisable goods.

32.4 This amendment will come into effect from 1.4.2007. The new rule may be brought to the notice of trade and be studied carefully. If any modification or clarification is needed, the same may be brought to the notice of Member (Central Excise) through a d.o. letter latest by 15.3.2007.

### 33. **Miscellaneous:**

33.1 Explanation to Notification No. 21/2004-CE (NT) dated 06.09.2004 specifies the duties which can be given as rebate. This explanation has been amended by inserting a new clause so as to provide that the additional duty leviable under section 3 of the Custom Tariff Act, equivalent to the duty of excise specified in the said clause, can also be given as rebate under this notification.

33.2 Condition no.3 (i) of Notification No.5/2006-CE (NT) dated 14.03.2006 provides that in order to claim refund of accumulated CENVAT credit, the exporter should submit shipping bill or bill of export duly certified by the officer of Customs as a proof of export. This condition has been amended to further provide that photocopy of such documents attested by the same officer of Customs would also be acceptable.

33.3 Chief Commissioners have been empowered to allocate the adjudication cases among the Commissioners or Commissioners (Adjudication) within their jurisdiction. Thus, there

would be no need to refer the cases to the Board for transferring adjudication cases from one Commissioner to the other.

34. **Revenue foregone statements:**

34.1 Last budget, for the first time, a chapter was introduced in 'Receipt Budget', which is part of the Budget documents. This chapter contained a statement on revenue foregone. This year also, similar statements have been prepared as part of budget documents giving revenue foregone figures for 2005-06 and 2006-07 (estimates). These have been prepared with the help of data made available by Directorate of Systems. But the quality of data for excise duties is still not comprehensive. It is imperative that for 2007-08, we come up with much better and reliable figures. I would request you to kindly ensure this, as the revenue-foregone statements have to be extremely reliable and accurate.

35. **General**

35.1 You may kindly study these changes carefully and indicate your views, comments and suggestions on implementation of the proposed changes. A survey may be undertaken to identify the potential taxpayers and the revenue potential. Reports to this effect may be sent by 31.3.2007. It is necessary to ensure that the implementation of the proposed changes is smooth and causes no inconvenience to the taxpayers. Special efforts should be made to guide the taxpayers to understand and adopt these changes. The Departmental Officers should also be appropriately briefed on these changes.

35.2 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-I 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 5<sup>th</sup> March, 2007 and second report by 13<sup>th</sup> March, 2007 and subsequently as mentioned in Annexure I.**

35.3 Apart from the price behaviour data mentioned above, we also need details of clearances and of duty paid in respect of certain commodities. The list of such commodities is given below:

- (a) Cement (Please give the information excise rate-wise. For example, if some cement is cleared at Rs.350 per metric tonne and some at Rs.600 per metric tonne, the information regarding quantity and revenue has to be given for each of these rates separately);
- (b) Biscuits (rate-wise);
- (c) Pan masala, not containing tobacco;

The information in respect of the above commodities is to be given as per Annexure II and III. Annexure II is a one-time report and needs to be sent so as to reach us by 31<sup>st</sup> March 2007. Thereafter reports are needed as per Annexure III so that report for a particular month from March 2007 onwards reaches us by 20<sup>th</sup> of the succeeding month.

35.4 In respect of items proposed for MRP based levy, the information may be furnished by 30<sup>th</sup> April, 2007 as per Annexure IV.

35.5 The reports may kindly be arranged to be sent on time after careful scrutiny. **These reports would be required to be sent by the Chief Commissioners after consolidating the reports from all the commissionerates under their charge.**

35.6 All rate changes in customs and excise duties are explained 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 our notice at the earliest any omission/error that might have crept in. If there is any doubt or difficulty on any point, you may kindly bring it immediately to my notice or to the notice of Shri Alok Shukla, Director, TRU (Tel No.23092753) or Shri Ravinder Saroop, Director, 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 Chief Commissioners/Director Generals/  
Commissioners of Customs, Central Excise and Service Tax

**Annexure-I (Refer Para 35.2)**

PRICE DATA

Report for the period

Commodity

Chapter No.

Date	Description of Goods	Heading / sub-heading No.	Ex-factory Price (Rs.)	Excise Duty paid (Rs.)	Wholesale price inclusive of all taxes (Rs.)	Retail price (Rs.)	Remarks
28.2.2007							
8.3.2007							
15.3.2007							
31.3.2007							
15.4.2007							
30.4.2007							

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 28.2.2007 and should be sent so as to reach latest by 5.3.2007. Subsequent report should give the position as on 8.3.2007, 15.3.2007, 31.3.2007, 15.4.2007 & 30.4.2007 and should reach within 5 days after the expiry of the specified date.
5. While submitting the reports for the period subsequent to 15.3.2007, the detail submitted in the earlier reports may kindly be repeated. To illustrate, while submitting the reports for the period ending on, say, 31.3.2007, details given in the report for 15.3.2007 should also be repeated.
6. Copy of the reports meant for TRU should be sent by name to Shri Sonal Bajaj, 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) Packed biscuits of MRP not exceeding Rs.50 per Kg.
  - (ii) Food mixes (including instant food mixes)
  - (iii) Umbrellas
  - (iv) Plywood, veneered panels and similar laminated wood
  - (v) Pan masala not containing tobacco
  - (vi) Cement

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**Annexure II**  
(Refer Para 35.3)

**Month wise production, clearance and excise duty paid report for commodities**

S. No.	Month	Production		Clearance		Duty paid	
		Quantity	Value (Rs. in crore)	Quantity	Value (Rs. in crore)	Quantity	Value (Rs. in crore)
1	April 06						
2	May, 06						
3	June, 06						
4	July, 06						
5	August, 06						
6	September, 06						
7	October, 06						
8	November, 06						
9	December, 06						
10	January, 07						
11	February, 07						

**Note:**

1. **Annexure II is one time report giving month wise details for April 06 to February 2007.**
2. This report should reach us by 31<sup>st</sup> March, 2007.

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**Annexure III**  
(Refer Para 35.3)

**Monthly production, clearance and excise duty paid report on** (Name of the commodity)

For the Month of \_\_\_\_\_ 2007

Month	Production		Clearance		Duty paid	
	Quantity	Value (Rs. in crore)	Quantity	Value (Rs. in crore)	Quantity	Value (Rs. in crore)
For the month						
Upto the month						

**Note:**

1. **This report is needed for March 2007 onwards and would have to be sent on monthly basis.**
2. Report for a particular month should reach by 20<sup>th</sup> of the following month.
3. The report needs to be consolidated at the office of the Chief Commissioner, and Chief Commissioner would be sending a consolidated report in respect of all the Commissionerates under his charge.

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**Data on goods proposed to be covered under MRP based levy**

Following data may be furnished in respect of each item separately:

1. Serial No.
2. Name of the manufacturer with name of the Commissionerate and the Division
3. Description of item along with specifications, if any
4. Assessable value as on 10<sup>th</sup> March, 2007
5. Maximum Retail Price (If there is more than one MRP please indicate all MRPs)
6. Trade margin as per record (If margin is not uniform, indicate the maximum and minimum) with details of distributor, wholesaler, retailer margins
7. Rate of Duty (Excise duty & VAT)

**Note:**

- 1 If there is any agreement between the manufacturer and the distributor and / or dealer, copy of the same may also be furnished.
- 2 If there is any industry association, which represents the manufacturers of these goods, contact particulars of the association may also be furnished.
- 3 Trade margins may be verified from actual documents
- 4 Do not include non standard discounts i.e. discounts which are not given at the time of issue invoice and discounts such as turnover discount, volume discount, seasonal discount, cash discount.

**Annexure-V**  
**(Para 3.3)**

**Revenue from Export Duties**

	Item	Quantity (in metric tonne)		Value (Rs. in crore)		Duty paid (Rs. in crore)	
		For the month	Upto the month	For the month	Upto the month	For the month	Upto the month
<b>1.</b>	<b>Iron ores and concentrates</b>						
(a)	Iron ore lumps (60% Fe or more)						
(b)	Iron ore lumps (below 60% Fe, including black iron ore containing up to 10% Mn)						
(c)	Iron ore fines (62% Fe or more)						
(d)	Iron ore fines (below 62% Fe)						
(e)	Other						
<b>2.</b>	<b>Chromium ores and concentrates</b>						
(a)	Chrome ore lumps, containing 47% Cr <sub>2</sub> O <sub>3</sub> and above						
(b)	Chrome ore lumps, containing 40% or more but less than 47% Cr <sub>2</sub> O <sub>3</sub>						
(c)	Chrome ore lumps, below 40% Cr <sub>2</sub> O <sub>3</sub>						
(d)	Chrome ore friable and concentrates fines containing 47% Cr <sub>2</sub> O <sub>3</sub> and above						
(e)	Other						

**Note:**

1. The report is to be sent for March 2007 onwards on monthly basis.
2. Report for a particular month should reach by 7<sup>th</sup> of the succeeding month, and should be consolidated at the office of the Chief Commissioner and a consolidated report should be sent in respect of all the Commissionerates under his charge.