

CUSTOMS

Note: (a) "Customs Duty" means the customs duty levied under the Customs Act, 1962.

(b) "CVD" means the Additional Duty of Customs levied under section 3 of the Customs Tariff Act, 1975.

Changes come into effect immediately unless otherwise specified.

Major proposals about customs duties are the following:

A. PEAK RATE OF AD VALOREM CUSTOMS DUTY REDUCED:

- 1) Peak rate of customs duty on non-agricultural products has been reduced from 12.5% to 10% with a few exceptions.
- 2) Ad valorem component of customs duty on textiles fabrics and garments has been reduced from 12.5% to 10%. There is, however, no change in specific component of customs duty.

B. 4% ADDITIONAL DUTY OF CUSTOMS:

- 1) Following items have been exempted from additional duty of customs of 4%:
 - a) All edible oils, crude as well as refined,
 - b) Roasted molybdenum ore and concentrate,
- 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.

C. METALS AND THEIR INPUTS:

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

D. EXPORT DUTY:

Export duty has been imposed on:

- 1) Iron ores and concentrates, all sorts @ Rs.300 per metric tonne.
- 2) Chromium ores and concentrates, of all sorts @ Rs.2000 per metric tonne:

E. SECONDARY AND HIGHER EDUCATION CESS

An Education Cess of 1% of the total duties of customs has been imposed on imported goods. The proceeds from this cess shall be utilized to finance secondary and higher education. The manner of levy of this cess would be the same as in the case of Education Cess of 2% imposed in budget 2004 for financing basic education.

F. AIRCRAFTS

- 1) Customs duty of 3% has been imposed on aircrafts. CV duty of 16%, and special additional duty of customs of 4% has also been imposed on such aircrafts. Imports by scheduled airline operators and Government will be exempt.
- 2) Customs duty of 3%, CVD of 16%, and 4% additional duty of customs has been imposed on parts of aircrafts, imported for use in such aircrafts. Imports by Government and scheduled airlines will be exempt.

- 3) Aircraft, not registered in India, which are brought for the purpose of flight to or across India and ultimately removed within six months from the date of arrival are, however, exempt from all duties of customs.

G. CHEMICALS AND PETROCHEMICALS:

- 1) Customs duty has been reduced from 12.5% to 7.5% on goods falling under Chapter 28 (except Titanium Dioxide), Chapter 29 (except Mannitol, Sorbitol and Caprolactum) and Chapter 31.
- 2) Customs duty has been reduced on glycerol waters and glycerol lyes from 30% to 20%.
- 3) Customs duty has been reduced on Denatured ethyl alcohol from 10% to 7.5%.
- 4) 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).
- 5) Customs duty has been reduced from 12.5% to 7.5% on goods falling under heading 3403.
- 6) 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).
- 7) Customs duty has been reduced from 12.5% to 7.5% on goods falling under headings 3901 to 3907 and 3909 to 3915.
- 8) Customs duty has been reduced from 12.5% to 10% on Titanium Dioxide, and pigments and preparations based on Titanium Dioxide.

H. AGRICULTURE:

- 1) Customs duty has been reduced on food processing machinery from 7.5% to 5%.
- 2) Customs duty has been reduced on sprinklers and drip irrigation systems used for agricultural and horticultural purposes from 7.5% to 5%.
- 3) 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.
- 4) Customs duty has been reduced on crude sunflower oil from 65% to 50% and on refined sunflower oil from 75% to 60%.
- 5) Customs duty has been reduced on Dextrose monohydrate from 30% to 20%.

I. TEXTILES:

- 1) Customs duty on polyester staple fibres and tow and polyester filament yarns has been reduced from 10% to 7.5%.
- 2) Customs duty on polyester chips has been reduced from 10% to 7.5%.
- 3) Customs duty on DMT, PTA and MEG has been reduced from 10% to 7.5%.

J. EXPORT PROMOTION:

- 1) Customs duty on cut and polished diamonds has been reduced from 5% to 3%.
- 2) Customs duty on rough synthetic gemstones has been reduced from 12.5% to 5%.
- 3) Customs duty has been reduced on unworked or simply prepared corals from 30% to 10%.
- 4) Raw, tanned or dressed fur skins have been exempted from CVD of 8%.

K. RESEARCH & DEVELOPMENT

- 1) Present concessional rate of 5% customs duty plus Nil CVD on specified items, available to public funded research institutions and non-commercial research institutions, has been extended to all research institutions registered with the Department of Scientific & Industrial Research, subject to certain conditions.

- 2) At present concessional rate of 5% customs duty is available on specified items for pharmaceutical and biotechnology 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. The list of such items has been expanded by including 15 additional items.

L. HEALTH

Customs duty on medical equipment has been reduced from 12.5% to 7.5%.

M. 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% custom duty.

N. MISCELLANEOUS

- 1) Customs duty has been reduced on dredgers from 5% to Nil.
- 2) Customs duty has been reduced on high ash coking coal from 5% to Nil.
- 3) Customs duty has been reduced on butyl rubber from 10% to 5%.
- 4) Customs duty has been reduced on natural boron ore from 5% to 2%.
- 5) Customs duty has been reduced on borax or boric acid from 10% to 5%;
- 6) Customs duty has been reduced on frit from 10% to 5%;
- 7) Customs duty has been reduced on specified ceramic colours from 12.5% to 5%.
- 8) Customs duty has been reduced on watch dials and movements from 12.5% to 5%.
- 9) Customs duty has been reduced on parts of umbrella, including umbrella panels, from 12.5% to 5%.
- 10) Customs duty has been reduced on dammar batu from 30% to 20%.
- 11) A uniform customs duty rate of 5% has been prescribed for urea unconditionally.
- 12) Aramid yarns for manufacture of bulletproof jackets for supply to armed forces have been exempted from both customs duty and CVD.
- 13) Customs duty has been reduced on pet food from 30% to 20%.

O. WITHDRAWAL OF EXEMPTIONS

- 1) Customs duty exemptions/concessions on following items have been withdrawn:
 - a) Chemicals, for use in the manufacture of Centchroman;
 - b) Codeine phosphate or Nicotine, 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.
- 2) CVD/Excise duty exemptions on following items have been withdrawn:
 - a) Cold-set high speed printing machines for newspapers. Such machines will attract excise duty/CVD at 8%
 - b) Specified parts of set top boxes.

CENTRAL EXCISE

Note: Changes come into effect immediately unless otherwise specified.

Major proposals about central excise duty are the following:

A. SECONDARY AND HIGHER EDUCATION CESS:

A Secondary and Higher Education Cess @ 1% has been imposed on excisable goods manufactured in India. The proceeds from this cess will be utilized to finance secondary and higher education. It shall be chargeable on the aggregate duties of excise leviable on such goods. The credit of this Education Cess paid on inputs and capital goods shall be available as credit for payment of Education Cesses on the final products.

B. RELIEF MEASURES:

- 1) Excise duty has been fully exempted on:
 - (a) Packed biscuits of maximum retail sale price (MRP) not exceeding Rs.50 per kilogram;
 - (b) Food mixes (including instant food mixes);
 - (c) Specified water purification devices based on membrane technology;
 - (d) Household water filters not using electricity and pressured tap water;
 - (e) Biodiesels.
- 2) Excise duty has been reduced from 16% to 8% on:
 - (a) Umbrellas;
 - (b) Plywood, veneered panels and similar laminated wood ;
 - (c) Footwear parts/components falling under heading 6406;
 - (d) Wadding, gauze;

C. PETROLEUM:

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

D. TEXTILES:

- 1) Excise duty has been reduced on caprolactum and nylon chips from 16% to 12%.
- 2) Excise duty has been reduced on benzene for manufacture of caprolactum from 16% to 12%.
- 3) Optional excise duty at 12% has been prescribed on fishnet grade nylon yarns, fishnet fabrics, fishnet twine and fishnets.
- 4) Full exemption from excise duty on specified textile machinery has been withdrawn and an excise duty of 8% has been imposed thereon.

E. SMALL SCALE INDUSTRIES:

Exemption limit for SSI scheme has been increased from Rs 1 crore to Rs.1.5 crore. This will be effective from 1.4.2007.

F. RESEARCH & DEVELOPMENT:

Exemption from excise duty has been extended to specified items when domestically procured by all research institutions registered with Department of Scientific & Industrial Research, for the purpose of research, subject to certain conditions.

G. 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.

H. TOBACCO PRODUCTS:

1) Specific rates of total excise duty on cigarettes have been revised as under:

S. No.	Description	Present rate	Proposed rate
	Non-Filter Cigarettes	(Rs. per 1000)	
1	Not exceeding 60 mm in length	160	168
2	Exceeding 60 mm but not exceeding 70 mm	520	546
	Filter Cigarettes		
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

2) Specific rates of total excise duty (including cess) on biris 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.

3) The exemption limit for 20 lakh unbranded biris in a financial year will now be subject to the condition that any person wanting to avail of the exemption has to file a declaration with the Central Excise Department.

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%.

I. CEMENT:**(a) General rate**

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

2) 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.

(b) Mini cement plants

3) 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.

4) 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.

5) Cement has been included in the Third Schedule of the Central Excise Act to provide that in relation to products of heading 252329, packing or repacking in unit container, labelling or relabelling of packages, including the declaration or alteration of retail sale price on it or adoption of any other treatment to render the product marketable to the consumer, shall amount to 'manufacture'.

J. INFORMATION TECHNOLOGY:

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

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

K. RETAIL SALE PRICE (RSP) BASED ASSESSMENT:

RSP based assessment is being extended from a date to be notified to:

(a) Personal computers (including laptops and other portable computers)

(b) Printers, whether or not combined with the functions of copying or facsimile transmission.

(c) Monitors of a kind used solely or principally in an automatic data processing machine.

(d) Computer key boards

- (e) Scanners
- (f) Computer mouse
- (g) Computer plotter
- (h) Facsimile machines
- (i) Modems (modulator-demodulators)
- (j) Set top boxes for gaining access to internet
- (k) Set top boxes for television sets.

L. WATER SUPPLY PROJECTS:

At present, exemption from excise duty is available for pipes used for taking water from water treatment plant, including its reservoir, to the first storage point. This is being continued. 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. Such pipes will be eligible for the exemption irrespective of whether they are used for taking water from treatment plant to the first storage point or from one storage point to another storage point.

M. WITHDRAWAL OF EXEMPTIONS:

- 1) Excise duty exemptions/concessions on following items have been withdrawn:
 - 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 Centre Glass and Ceramic Research Institute, Calcutta 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.
- 2) Exemption from excise duty on pan masala containing tobacco and other tobacco products manufactured by specified units in the North East Region have been withdrawn.

N. AMENDMENTS IN CUSTOMS ACT AND CENTRAL EXCISE ACT:

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

- 1) 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.
- 2) 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.
- 3) Section 28E (c) (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 (c) 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.

- 4) 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.
- 5) 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 have become redundant. Customs Act, 1962 is accordingly being amended to omit Chapter XA of the said Act.
- 6) 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;
- 7) 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, undervaluation, 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 1st June, 2007, but pending issuance of an order by the Commission, the applicant shall pay the accepted duty by 30th June, 2007, failing which the application shall be rejected;
- 8) 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 31st May, 2007, the order shall be passed by 29th February, 2008, and in respect of application made on or after 1st 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;
- 9) 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 1st June, 2007;
- 10) 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;
- 11) 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 31st May, 2007 shall be decided in accordance with the existing provisions;
- 12) 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;
- 13) 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;
- 14) Section 127MA of the Customs Act, 1962 is being omitted as it has outlived its utility;
- 15) 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.
- 16) 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.
- 17) 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.

- 18) 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.
- 19) Section 23A (c) of the Central Excise Act, 1944 act defines an "applicant" who is entitled to seek Advance Ruling. Under section 32A(c) (ii), applicant includes a joint venture in India. This section is being amended by inserting an Explanation in clause (c) 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.
- 20) 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;
- 21) 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;
- 22) 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 exciseduty 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 1st June, 2007, but pending issuance of an order by the Commission, the applicant shall pay the accepted duty by 30th June, 2007, failing which the application shall be rejected;
- 23) 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 31st May, 2007, the order shall be passed by 29th February, 2008, and in respect of application made on or after 1st 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;
- 24) Section 32H of the Central Excise Act, 1944 is being amended with a view to debar the Settlement Commission from re-opening completed proceedings in respect of applications received on or after 1st June, 2007;
- 25) 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;
- 26) 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 31st May, 2007 shall be decided in accordance with the existing provisions;
- 27) 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;
- 28) 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;
- 29) Section 32PA of the Central Excise Act, 1944 is being omitted as it has outlived its utility;
- 30) 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.
- 31) 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.

- 32) 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.

Amendment to Rules

(To come into force with effect from 1st March,2007)

- 33) The Central Excise Rules, 2002 have been amended as under:

- 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 5th or 15th of the next month;
- b) Rule 8 has been further amended to make e-payment mandatory for payment of duty by all assessees 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.;

- 34) The CENVAT Credit Rules, 2004 have been amended as under:

- a) 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;
- b) 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;
- c) 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.
- d) to allow credit of Secondary and Higher Education Cess for payment of Education Cesses.

- 35) 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.

O. AMENDMENTS IN OTHER ACTS:

- 1) Clause (iid) of Section 14 of the Central Sales Tax Act, 1956 is being amended with a view to rationalize this provision and to have a more precise definition, so as to cover all similarly placed aircrafts, irrespective of whether they are Turbo-Prop or otherwise, with the objective of improving air-connectivity to remote parts of the country by restricting the rate of Sales Tax/VAT on Aviation Turbine Fuel sold to such small aircrafts. In addition, the term 'scheduled airlines' has also been defined.

SERVICE TAX

(I) SECONDARY AND HIGHER EDUCATION CESS:

A cess @ 1% is being imposed on services liable to service tax. It shall be levied on the service tax payable on such services. The cess paid on inputs services shall be available as credit for payment of cess on output services. It will come into force from the date of enactment of the Finance Bill, 2007.

(II) FOLLOWING SERVICES ARE INDIVIDUALLY SPECIFIED AS TAXABLE SERVICES:

- (1) Telecommunication service (includes various telecommunication related services which are presently specified as separate taxable services) ;
- (2) Services outsourced for mining of mineral, oil or gas;
- (3) Services provided in relation to renting of immovable property, other than residential properties and vacant land, for use in the course or furtherance of business or commerce (such services provided by or to a religious body are excluded);
- (4) Services provided in relation to the execution of a works contract (sales tax is levied on transfer of goods involved in the execution of works contract by States);
- (5) Development and supply of content for use in telecommunication services, advertising agency services and on-line information and database access or retrieval services;
- (6) Asset management services including portfolio management and all forms of fund management service provided by any person, except a banking company or a financial institution including a non-banking financial company or any other body corporate or commercial concern;
- (7) Design services.

The above changes will come into effect from a date to be notified after the enactment of the Finance Bill, 2007.

(III) SCOPE OF SPECIFIED TAXABLE SERVICES IS BEING AMENDED AS FOLLOWS:

- (1) To include,-
 - (i) sale of space in business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes under sale of space or time for advertisement service;
 - (ii) renting of motor vehicles capable of carrying more than twelve passengers under rent-a-cab service. Motor vehicle or maxicab rented to an educational body, other than a commercial training or coaching centre, will be excluded from the scope of this service;
 - (iii) services provided in relation to marriage functions under mandap keeper service, pandal or shamiana service and event management service;
 - (iv) computer hardware engineering consultancy under consulting engineer's service;
- (2) To amend,-
 - (i) Banking and other financial services, so as to:
 - (a) substitute the words "any other person" with "commercial concern" in the definition of taxable service;
 - (b) include cash management within its scope; and
 - (c) explain the term "financial leasing";
 - (ii) Management consultant service so as to rename it as management or business consultant service and to include explicitly business consultancy within its scope;
- (3) To clarify that,-
 - (i) recruitment or supply of manpower service includes services in relation to:
 - (a) pre-recruitment screening,
 - (b) verifying the credentials and antecedents of the candidate, and
 - (c) authenticity of documents submitted by the candidates;
 - (ii) "goods" referred to in management, maintenance or repair service includes computer software.

The above changes will come into effect from a date to be notified after the enactment of the Finance Bill, 2007.

(IV) EXEMPTION FROM SERVICE TAX:

- (1) The threshold limit of service tax exemption for small service providers is being increased from the present level of Rs.4 lakh to Rs.8 lakh;
- (2) Exemption from service tax is being provided to,-
 - (i) all taxable services provided by Technology Business Incubators (TBI)/Science and Technology Entrepreneurship Parks (STEP) recognized by National Science and Technology Entrepreneurship Board of Department of Science & Technology also known as "incubators";

- (ii) taxable services provided by an incubatee (entrepreneur) whose total business turnover in a year does not exceed Rs. 50 lakh and is located within the premises of an incubator, subject to specified conditions;
- (iii) services provided by resident welfare associations to their members, where the monthly contribution of a member does not exceed Rs. 3000/- per month;
- (iv) services provided in relation to delivery of content of cinema in digital form after encryption, electronically;
- (v) technical testing and analysis services provided in relation to testing of new drugs, including vaccines and herbal remedies, on human participants by a Clinical Research Organization (CRO) approved to conduct clinical trials by the Drugs Controller General of India.

Exemptions specified in-

- (a) 2(iii), 2(iv) and 2(v) will come into effect from 1st March, 2007, and
- (b) (1), (2)(i) and (2)(ii) will come into effect from 1st April, 2007.

(V) AMENDMENTS IN ACT AND RULES:

(1) Finance Act, 1994 is being amended to: -

- (i) omit sub-clauses (b), (c), (zd), (ze), (zf) and (zg) of clause (105) and clauses (60) and (104) with reference to taxable services namely, telephone connection, pager, leased circuit, communication through telegraph, telex and facsimile communication consequent upon "telecommunication service" being specified as a separate taxable service [section 65] [This change will come into effect from a date to be notified after enactment of the Finance Bill, 2007];
- (ii) omit references to sub-clauses (b), (c), (zd), (ze), (zf) and (zg) of clause (105) and to include services which are individually specified as taxable services in this year's Finance Bill [section 66] [This change will come into effect from a date to be notified after enactment of the Finance Bill, 2007];
- (iii) provide filing of periodical return after the due date with the prescribed late fee [section 70(1) and section 94(2)(c)];
- (iv) extend the applicability of the following provisions of the Central Excise Act, 1944, to service tax matters also, namely:-
 - (a) section 14AA, so as to order cost audit to study abnormal utilization of CENVAT credit; and
 - (b) section 38A, so as to protect actions under rules and notifications that existed prior to changes in the rules and notifications [section 83];
- (v) amend section 86, so as to empower the Central Board of Excise and Customs to constitute Committees comprising of:
 - (a) two Commissioners of Central Excise for the purposes of reviewing the order passed by a Commissioner of Central Excise (Appeals); and
 - (b) two Chief Commissioners of Central Excise for the purposes of reviewing the adjudication orders passed by a Commissioner of Central Excise;
- (vi) empower the Central Government to issue orders within one year from the date of the assent to the Finance Bill, 2007 for removal of difficulty in respect of implementing, classifying or assessing the value of any taxable service incorporated by the Finance Bill, 2007 [section 95(1D)]; and
- (vii) insert an Explanation in clause (b) of section 96A relating to definition of 'applicant' so as to clarify that in the 'joint venture in India' at least one of the participants or partners or equity holders shall be a non-resident.

The above changes [except (1)(i) and (1)(ii)] will come into force from the date of enactment of the Finance Bill, 2007.

(2) The Service Tax Rules, 1994, are being amended to:

- (i) provide self-adjustment of excess service tax paid, subject to specified conditions [Rules 6(4A) and 6(4B)];
- (ii) allow rectification of mistakes and file revised return within 60 days from the date of submission of original return, subject to specified conditions (Rule 7B);
- (iii) enable submission of self-attested copy of the original registration certificate instead of original registration certificate while intimating any changes in the details given in the original registration certificate [Rule 4(5), Form ST-1 and Form ST-2];
- (iv) restrict the payment of service tax under reverse charge mechanism in relation to sponsorship service where the recipient of service is located in India [Rule 2(1)(d)(vii)].

The above changes [except (iv) which will come into effect from 1st April, 2007] will come into effect from 1st March, 2007.

(3) The Export of Services Rules, 2005 are being amended to:

- (i) substitute the words 'delivered outside India and used outside India' with the words 'provided from India and used outside India' [Rule 3 (2)]; and
- (ii) to clarify that that both rule 3(1) and 3(2) are to be satisfied for provision of service to be treated as export of service.

The above changes will come into effect from 1st March 2007.