

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

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D.O.F.No.334/ 3/2011-TRU
New Delhi, dated the 28th February, 2011.

Dear Chief Commissioner/Commissioner,

The Finance Minister has introduced the Finance Bill, 2011 in Lok Sabha today, i.e., 28th February, 2011. Changes in Customs and Central excise law and rates of duty have been proposed through the Finance Bill, 2011 (clauses 35 to 58 for customs & clauses 59 to 70 for Central Excise). In order to prescribe effective rates of duty and to carry out changes in the Rules made under the respective Acts, the following notifications are being issued:

CUSTOMS:	Notification Nos.	Date
Tariff	No.13/2011-Customs to No. 27 /2011-Customs	1 st March, 2011
Non-Tariff	No.15/2011-Customs(NT) to No.18/2011-Customs (NT)	1 st March, 2011
CENTRAL EXCISE		
Tariff	No.1/2011-CE to No.18/2011-CE	1 st March, 2011
Non-Tariff	No.3/2011-CE (NT) to No.7/2011-CE (NT)	1 st March, 2011

Unless otherwise stated, all changes in rates of duty take effect from the midnight of 28th February/1st March, 2011. A declaration has been made under the Provisional Collection of Taxes Act, 1931 in respect of clauses 57(a)(i), 57 (b) and 70(a)(i) of the Finance Bill, 2011 so that changes proposed therein take effect from the midnight of 28th February/1st March, 2011. The remaining legislative changes would come into effect only upon the enactment of the Finance Bill, 2010. Retrospective amendments in the provisions of law or notifications issued under the respective Acts shall have the force of law only upon the enactment of the Finance Bill, 2011 but with effect from the date indicated in the relevant clause or Schedule. These dates may be carefully noted.

2. The important changes in respect of Customs and Central excise duty are discussed below.

I. CENTRAL EXCISE

3 Rate structure for goods, other than petroleum:

3.1 The standard rate of Central Excise duty for non-POL products has been **maintained at 10%**. The merit rate of excise duty (CENVAT) for non-petroleum goods **has been increased**

from 4% to 5%. The increased rate would apply to all such goods that hitherto attracted the rate of 4%.

Cement:

3.2 The rate structure applicable to Portland cement falling under heading no.252329 has been revised. Cement manufactured by units **other than mini-cement plants and cleared in a packaged form** was chargeable to Central Excise duty either at specific rates or *ad valorem* rates depending on the retail sale price per 50 kg bag. The *ad valorem* rate was applicable to the retail sale price. Although the price slabs are being retained, the **rates of duty are being converted to mixed rates i.e. *ad valorem* + specific rates along with some reduction. For the purpose of the *ad valorem* component, the value would no longer be the retail sale price but the transaction value determined under section 4 of the Central Excise Act, 1944.** Similarly, rates of duty applicable to cement manufactured by mini-cement plants have been revised from specific rates to either *ad valorem* or *ad valorem*+ specific rates with some reduction. The rate of duty on bulk cement (i.e. other than packaged form), whether manufactured in a mini-cement plant or not, is being unified at 10% *ad valorem*. The details of these changes are as under:

S.No.	Description of goods	Earlier rate	Revised rate
1.	Packaged cement manufactured in a mini-cement plant –		
	(i) Of retail sale price not exceeding Rs.190 per 50 kg bag or of per tonne RSP not exceeding Rs.3800	Rs.185 PMT	10% <i>ad valorem</i>
	(ii) Of retail sale price not exceeding Rs.190 per 50 kg bag or of per tonne RSP not exceeding Rs.3800	Rs.315 PMT	10% <i>ad valorem</i> + Rs.30 PMT
2.	Packaged cement manufactured in a plant other than a mini-cement plant –		
	(i) Of retail sale price not exceeding Rs.190 per 50 kg bag or of per tonne RSP not exceeding Rs.3800	Rs.290 PMT	10% <i>ad valorem</i> + Rs.80 PMT
	(ii) Of retail sale price not exceeding Rs.190 per 50 kg bag or of per tonne RSP not exceeding Rs.3800	10% of retail sale price	10% <i>ad valorem</i> + Rs.160 PMT

3.3 Excise duty on cement clinker has been revised from Rs.375 per metric tonne to “10%+ Rs.200 per metric tonne”.

Ready-made garments and made-up articles:

3.4 Excise duty at the rate of 10% shall now apply to **ready-made garments and made-up articles of textiles** falling under Chapters 61, 62 and 63 (heading nos.63.01 to 63.08) of the Central Excise Tariff except those falling under heading nos.63.09 and 63.10 **when they bear or are sold under a brand name.** Hitherto, ready-made garments and made-up articles were exempt from Central Excise duty on the condition that no credit of duty on inputs is taken by the manufacturer in terms of notification no.30/2004-CE dated 9th July, 2004. If credit were taken, the applicable rate was 4% for goods of cotton, not containing any other textile material and 10% for

others under notification no.29/2004-CE also dated 9th July, 2004. These notifications are being amended so that they apply only to those goods of Chapters 61, 62 and 63 not bearing a brand name or not sold under a brand name. **For such goods, therefore, the optional duty regime would continue. In the case of ready-made garments and made-up articles bearing a brand name or sold under a brand name, no such option would be available and a duty of 10% would be payable regardless of the composition of the item/article.**

3.5 Note 12 of Chapter 61 and Note 11 of Chapter 62 already prescribe that certain processes such as affixing a brand name on a product, labeling or re-labeling of containers etc. shall be processes amounting to manufacture. A similar note (Note 5) is being added to Chapter 63. As for the valuation of these goods, tariff value has already been fixed at the rate of 60% of the retail sale price in terms of notification No.20/2001-CE (NT) dated 30th April, 2004. This provision is being extended to goods of Chapter 63 as well. It may be noted that **SSI exemption is being extended to the goods attracting this levy.** This is being implemented through a suitable amendment in item (xxvi) of the Annexure to notification No.8/2003-CE dated 1.3.2003. Although this should take care of small manufacturers, it may be made abundantly clear to the field formations that the levy does not apply to retail tailoring establishments that stitch garments in a customized manner to the size and style specifications of individual customers, whether out of fabric purchased by the customer from the same establishment or fabric supplied by the customer.

3.6 It is the practice in the garment and made up industry for brand owners to have goods manufactured from several job-workers. The brand owners may or may not, themselves, possess any manufacturing facility. **Central Excise Rules are being amended to incorporate sub-rule (1A) in rule 4 to prescribe that in such a situation the liability to pay duty and comply with Central Excise procedure shall be on the person on whose behalf the goods are manufactured by job-workers.** For this purpose, he would be required to register his private store-room or warehouse in which inputs are received for distribution to job-workers and finished goods are received from the job-workers. He would also be required to comply with all the other provisions of Central Excise law. The job-worker is exempt from payment of duty if the merchant manufacturer pays the duty. Alternatively, the merchant manufacturer may authorize the job-worker to obtain registration and comply with all formalities of Central Excise including payment of duty. Cenvat Credit Rules, 2004 are being amended to enable merchant manufacturers to avail of credit of duty paid on inputs, input services and capital goods.

Automobiles:

3.7 Motor vehicles of headings 87.02 and 87.03 which are registered for use solely as ambulance after clearance are eligible to a concessional rate of 10% by way of a refund mechanism (S.No.34 (i) of notification no.6/2006-CE). For factory-built ambulances i.e. vehicles duly fitted with all fitments, furniture and accessories necessary for an ambulance, this concessional rate of 10% is being prescribed without any condition so that it may be claimed at the time of their clearance from the factory.

3.8 A similar refund-based concession was hitherto available to motor vehicles of heading 87.03 with a capacity of 7 persons including the driver which are registered for use solely as taxis after clearance(S.No.34 (ii) of notification no.6/2006-CE). Two changes are being carried out in this exemption: (i) the condition regarding capacity of the vehicle is being modified so that the

concession is available to vehicles with capacity upto 13 persons including the driver; (ii) instead of a concessional rate of 10% ad valorem, the manufacturer of such vehicles would be entitled to a concessional rate equivalent to 80% of the excise duty paid on such vehicle at the time of clearance. Thus, if a vehicle attracts a normal duty of 10%, the manufacturer would be entitled to a refund of the amount representing 2% i.e. one-fifth of the total duty if the vehicle is subsequently registered as a taxi.

3.9 Concessional duty of 10% is being prescribed for hydrogen vehicles based on fuel cell technology. Similarly, a concessional rate of Central Excise duty of 5% has been extended to specified parts of hybrid vehicles and plug-in kits (and their parts) for conversion of normal fuel vehicles into hybrid vehicles.

Precious metals

3.10 Excise duty on serially numbered gold bars, other than tola bars, when manufactured from the ore/ concentrate stage is being reduced from Rs.280 per 10 grams to Rs.200 per 10 grams. This concessional rate is also being extended when such bars are manufactured starting from the stage of “gold dore bars”. Gold and silver arise in the course of manufacture of unwrought copper from copper ore or concentrate through the smelting process. The rates of excise duty on such gold and silver are also being rationalized at Rs.300 per 10 grams and Rs.1500 per kg respectively.

Goods for Mega-Power Projects:

3.11 Full exemption from Central Excise duty is available to goods supplied to ultra-mega power projects subject to the fulfillment of certain conditions – one of them being that the goods should be eligible for exemption from customs duties. Trade had represented that difficulties were being experienced in availing of the benefit of this exemption owing to this condition. The description of goods in the relevant entry in notification no.6/2006-CE has been amended to align it with the description under heading no.98.01 (project imports) and the condition regarding eligibility for customs exemption has been deleted. In addition, the exemption has been extended to power cables used within the generation facility of such a project. It has also been clarified by an explanation that the ash disposal system including ash dyke, coal transportation systems and water intake are integral parts of such a project.

3.12 Full exemption from Central Excise duty has also been extended to specified goods supplied to expansion projects of existing mega power projects, subject to certain conditions.

4. Withdrawal of exemptions/ concessions:

4.1 A number of exemptions from Central Excise duty (about 130 exemption entries) are being withdrawn. These include some cases where the rate of duty is Nil by tariff. **A nominal duty of 1% ad valorem is being imposed on these items with the condition that no credit of the duty paid on input and input services is taken.** For ease of reference, this rate is being prescribed through a common notification no. 1/2011-CE dated 1st March, 2011. The statutory/ tariff rate for those items that hitherto attracted a Nil rate (by tariff) has been fixed at 5% *ad valorem*. Bill entries contained in the Tenth Schedule to the Finance Bill, 2011 may be referred to for this purpose. For the remaining items in whose case the statutory/tariff rate is not Nil, a general effective rate of 5% is being prescribed (without any condition) through notification no.

2/2011-CE dated 1st March, 2011. This would enable those manufacturers who wish to avail of Cenvat credit to pay a concessional duty of 5%.

4.2 In the case of jewellery of gold, silver or other precious metals as well as articles of these metals falling under heading no. 7114, the levy would apply only to goods either bearing a brand name or sold under a brand name. Full exemption from excise duty is being retained for unbranded products of this class.

4.3 The following amendments have been made in the Cenvat Credit Rules, 2004 for the implementation of the 1% scheme:

(a) The definition of “exempted goods” has been amended to include goods in respect of which the benefit of notification no.1/2011-CE is availed. This would imply that the credit attributable to such goods would have to be reversed when common inputs and input services are used for both these goods and otherwise dutiable goods.

(b) Credit of duty paid on inputs or input services would not be available to a manufacturer of these goods. **Credit of the duty paid on items that are being subjected to the levy of 1% would not be available to a manufacturer or service provider who buys them.**

(c) It is also being prescribed in the Cenvat Credit Rules that the manufacturer of these goods cannot discharge the duty liability on them by utilizing Cenvat credit otherwise available in his books of accounts. For these provisions, amendments in the Cenvat Credit Rules, 2004 contained in Notification No. 3/2011-CE (NT) dated 1st March, 2011 may be referred to.

4.4 Many of the manufacturers of these goods may be fresh registrants under Central Excise law. It may kindly be ensured that they are provided the necessary facilitation and guidance in securing registration and complying with Central Excise formalities and that coercive measures are not used in the immediate aftermath of the Budget for the implementation of the levy.

4.5 Full exemption was hitherto available to paper manufactured from non-conventional raw materials for the first clearances not exceeding 3500 per metric tonne per annum made from a unit. This exemption is being withdrawn.

4.6 Full exemption from excise duty available to automatic looms and projectile looms is being withdrawn. Full exemption on micro-processors, other than motherboards; floppy disc drive; hard disc drive; CD-ROM drive; DVD drives/ writers; flash memory and combo drives meant for fitment inside a laptop/CPU is also being withdrawn. All these goods would be chargeable to a concessional rate of 5%.

5. Relief Measures:

5.1 Full exemption from excise duty has been provided in the following cases:

- Air-conditioning equipment, panels and refrigeration panels for installation of cold-chain infrastructure for preservation, storage or transport of agricultural produce and apiary, horticultural, dairy, poultry, aquatic & marine produce and meat as well as processing thereof.;

- Conveyor belt systems for use in cold storages and in mandis and warehouses for the storage of food grains and sugar
- Goods required for the expansion of an existing mega/ ultra mega power project subject to specified conditions
- Specified parts of sewing machines (other than those with inbuilt motors)
- Parts of power tillers when cleared to another factory of the same manufacturer for manufacture of power tillers
- Cotton stalk particle board
- Enzymatic preparations for pre-tanning of leather
- Colour, unexposed cinematographic film in jumbo rolls of 400 feet and 1000 feet
- Pipe fittings required for a water supply project

5.2 Concessional duty of 1% is being provided for the following:

- Sanitary napkins, baby and clinical diapers and adult diapers
- Water filters using pressurized tap water but no electricity and their replaceable kits

5.3 Excise duty is being reduced from 10% to 5% on:

- Kits for the conversion of fossil fuel vehicles into hybrid vehicles and parts of such kits
- Grease proof paper and glassine paper

6. Important Legislative Amendments:

6.1 The provisions of sections 11A relating to the recovery of duty not levied, short levied, not paid, short paid or erroneously refunded have been redrafted with a view to improve the sequence in which provisions occur and simplify their language. Each sub-section consists of one sentence and conveys a single point. As far as possible, active voice has been used and provisos have been eliminated. In terms of content, the following important amendments have been proposed in this section:

- (i) A separate category has been carved out from cases involving extended period of limitation (fraud, collusion, willful mis-statement etc.) wherein a lower mandatory penalty of 50% of the duty (rather than 100% of the duty) would apply. These would cover cases where it is noticed during an audit, investigation or verification that duty has not been levied, short levied, not paid or short paid or erroneously refunded but the transactions to which such duty relates are entered in the specified records.
- (ii) While a provision has been made for issuance of show cause notice invoking the extended period for recovery of duty with interest under section 11AC and penalty equivalent to 50% of the duty, it has also been specifically provided that even in cases where show cause notice has been issued involving extended period of limitation (fraud, collusion, willful mis-statement etc.) with penalty equal to the duty, the penalty can be remitted to 50% if the Central Excise officer is of the opinion that the details of the transactions in respect of which the demand notice has been issued have been duly recorded by the person charged with duty in the specified records.
- (iii) The provisions of the existing sub-section (1A) of section 11 have been omitted. The facility of compounding the penalty amount has been confined only to the new category and if the person chargeable with duty (for an extended period) pays the duty in full or part along with interest **before** the issuance of a show cause notice, the

penalty shall stand reduced to 1% per month but not exceeding 25% of the duty. However if the duty alongwith interest is paid within thirty days of the issuance of adjudication order, the penalty would be 25% of the duty.

6.2 The provisions of sections 11AA and 11AB have been merged into a revised section 11AA. Under the proposed provision, interest would be payable on any duty not levied, short-levied, not paid, short paid or erroneously refunded from the first date of the month succeeding the month in which the duty ought to have been paid under the Act or from the date of erroneous refund. The provisions of the existing section 11AA are proposed to be omitted.

6.3 Pending enactment of the Finance Bill, 2011, the rates of interest are being revised with effect from the 1st of April, 2011 to a uniform rate of 18 per cent per annum under the existing provisions of sections 11AA and 11AB.

6.4 Section 11E is being inserted in the Central Excise Act to create a first charge on the property of a defaulter for recovery of Central Excise dues subject to the provisions of the Companies Act, Recovery of Debt due to Bank and Financial Institution Act, 1993 and Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. This implies that after the dues, if any, owing under these provisions, dues under the Central Excise Act shall have a first charge.

6.5 The provisions of section 12 of the Central Excise Act enable the Central Govt. to borrow the machinery provisions of the Customs Act with suitable modifications and alterations in respect of duties imposed by section 3. These are being amended to include a reference to duties imposed under section 3A as well so that the same provisions can be applied in respect of duties collected on the basis of compounded levy. The amended provision shall acquire legal force upon the enactment of the Finance Bill, 2011 with retrospective effect from 10.05.2008.

6.6 It has been decided to empower the Joint Commissioner/Additional Commissioner of Central Excise (instead of Assistant Commissioner) to carry out the search of any premises or to authorize a central excise officer to do so. For this purpose, section 12F is being inserted in the Central Excise Act.

6.7 As you are aware, the Board has already issued instructions prescribing monetary limits below which appeals, revision application or references need not be filed. However, such instances are not meant to be cited as precedents in cases involving similar issues or questions. A new section 35R is being inserted to empower the Board to issue such instructions. This section shall also acquire legal force when the Finance Bill, 2011 is enacted although with effect from 20.10.2010.

6.8 The Standards of Weights and Measures Act, 1976 is being repealed with effect from 01.03.2011 and replaced by 'The Legal Metrology Act, 2009'. Section 4A of the Central Excise Act is being amended to incorporate a reference to the new Act.

6.9 The First Schedule to the Central Excise Tariff Act (contained in the Tenth Schedule to the Finance Bill, 2011 read with clause 70(a)(i)) is being amended with immediate effect to, *inter-alia*, carry out the following changes -

- To prescribe that the process of repacking from bulk to retail packs, labeling or re-labelling of containers or adoption of any other process to render the product marketable shall be a process amounting to manufacture through the insertion of a Chapter Note in Chapter 22.
- To prescribe that the process of conversion of ores into concentrates shall be a process amounting to manufacture through the insertion of a Chapter Note in Chapter 26.
- To prescribe that the process of refining of gold dore bars shall be a process amounting to manufacture through the insertion of a Chapter Note in Chapter 71.
- To prescribe that the process of galvanisation shall be a process amounting to manufacture through the insertion of a Chapter Note in Chapter 72.

6.10 The First Schedule to the Central Excise Tariff Act (CETA) is also being amended to incorporate the latest editorial changes in the Harmonized System of Nomenclature (HSN). These changes will come into effect from 01.01.2012.

6.11 Parts, components and assemblies of vehicles falling under chapter 87 excluding vehicles of headings 8712, 8713, 8715 and 8716 were notified under section 4A of the Central Excise Act with effect from 27.02.2010. Subsequently, parts, components and assemblies of certain vehicles falling under chapter 84 were also notified under these provisions with effect from 29.04.2010. However, these goods were not simultaneously included in the Third Schedule to the CETA. These are now being included in the Third Schedule retrospectively w.e.f. 27.02.2010 and 29.04.2010 respectively.

6.12 Amendments are being made in the Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957 to remove sugar and textile and textile products from its purview. This would enable the State Governments to levy VAT on these items.

6.13 According to Note 5 the repacking of perfumes from bulk packs to retail packs, labeling or re-labeling of containers is a process amounting to manufacture. In the case of traditional perfumes, commonly known as 'Attar', this repacking is done at the point of retail sale to the customer in the retail shops. As a consequence, retail shops are required to obtain registration and comply with all the formalities of Central Excise law. The trade has represented that this poses a heavy compliance burden. Full exemption from excise duty has been provided to such goods when removed from retail shops after they are subjected to any of the process specified in the said Note provided that the manufacturer pays the duty on such goods when cleared in bulk from the factory on value representing the retail sale price. If the retail sale price is not required to be or not printed, then the value shall be the value at which such goods are sold in retail at a time nearest to the time of clearance from the factory. The notification also provides that the manufacturer shall observe the procedure specified by the jurisdictional Commissioner. (Notification No.18/2011-CE dated the 1st March, 2011 refers.)

7. Amendments in Cenvat Credit Rules, 2004

7.1 Several amendments have been carried out in the provisions of the Cenvat Credit Rules (CCR), 2004. The basic thrust of these changes is to broad base and simplify definitions to reduce disputes and to achieve a more realistic attribution when common inputs or input services are used for the manufacture of both dutiable and exempt goods. A detailed discussion on the revised provisions is contained in the d.o. letter of Joint Secretary (TRU-II) which is also being issued today. From the point of view of Central Excise, the salient features of these changes are as under:

- (a) The definition of 'input' contained in rule 2(k) has been revised. The requirement that goods should be used in or in relation to the manufacture of final products whether directly or indirectly and whether contained in the final product or not has been removed. Henceforth, all goods used in the factory by the manufacturer of the final product, except those specified in the negative list and goods having no relationship whatsoever with the manufacture of final product, would qualify for treatment as inputs. In addition, any goods including accessories cleared alongwith the final product and goods used for providing free warranty have also been included in the definition of inputs. Similarly, goods used for generation of electricity or steam for captive use also constitute inputs. As for exclusions, any goods used for the construction of a building or a civil structure or laying of foundation or making of structure for support of capital goods have been excluded. Another feature of the new definition is that goods used primarily for personal use or consumption of any employee including food articles etc. have been expressly excluded.
- (b) The definition of 'input service' has also been rationalized to impart clarity and to achieve congruence between goods and services so that the services related to any goods excluded from the definition of 'inputs' are also excluded from the definition of 'input services'. To give an example, goods used for construction have been excluded from inputs while construction services, works contract service, and other specified services in so far as they are used for construction have been kept out of the purview of input services.
- (c) In the case of capital goods, there is no material change in the definition. Credit of duty paid on capital goods used outside the factory for generation of electricity for captive use within the factory has been permitted.
- (d) The process of obtaining goods and material mainly melting scrap and re-rollable scrap of steel, by breaking up of ships, boats and other floating structures is deemed to be a process of manufacture in terms of section note 9 of Section XV of the Central Excise Tariff. In the breaking of ships, a number of used serviceable articles such as pumps, air-conditioners, furniture, kitchen equipment, wooden panels etc. are also generated. These are generally sold as second hand goods by ship breaking units but no excise duty is payable as they do not emerge from a manufacturing process. At the same time, ship breaking units are allowed to avail full credit of additional duty of customs paid on the ship when it is

imported for breaking. It has been reported by the field formations that this anomaly is resulting in misuse of the Cenvat credit scheme. Rule 3 of the CCR has been amended to prescribe that Cenvat credit shall not be allowed in excess of 85% of the additional duty of customs paid on ships, boats etc. imported for breaking.

- (e) Rule 5B is being amended to require a manufacturer or service provider to pay an amount equivalent to the CENVAT credit taken in respect of inputs or capital goods even where the value of such inputs or capital goods is written off partially before being put to use. Currently, this is required only when the value is written off fully.

II. CUSTOMS

Rate structure:

8. There is no change in the peak rate of basic customs duty of 10%. The existing rates of 2%, 2.5% and 3% are being fused into a single rate of 2.5%. Consequently, all items that hitherto attracted basic customs duty of 2% or 3% would now be chargeable to 2.5%.

Aircraft:

9.1 Full exemption from import duty (basic, CVD and special CVD) was hitherto available to import of aircraft by non-scheduled operators whether for passenger services or chartered services. This exemption was subjected to certain conditions including the condition that the aircraft should be used exclusively for charter or passenger services. The exemption from basic customs duty has been withdrawn on such imports and a basic duty of 2.5% has been imposed. The exemptions from CVD and special CVD have been retained. The conditions of the exemption have also been amended so as to allow the aircraft to be used interchangeably between passenger and charter services in consonance with the Civil Aviation Requirements.

9.2 Exemption from education cess and secondary and higher education cess presently available to aircrafts is being withdrawn.

IT Software

10. With effect from 21.12.2010 packaged or canned software falling under chapter 85 has been notified under section 4A of the Central Excise Act. Accordingly, the value of such software for the purposes of charging CVD is required to be determined on the basis of the retail sale price (RSP) affixed on the package under the Standards of Weights and Measures Act, 1976. It has been represented by the trade that in certain situations packaged software is not required to bear the RSP when imported and difficulties are being experienced in the assessment of such software to CVD. In order to resolve the issue, packaged software which is not required to bear RSP is being exempted from so much of the additional duty of customs as is equivalent to the duty payable on the portion of the value which represents the consideration paid or payable for transfer of the right of its use. Such software would therefore be required to pay CVD only on that portion of value representing the value of the medium on which it is recorded alongwith freight and insurance. The exemption is subject to the fulfillment of certain conditions. A

parallel exemption is also being provided from central excise duty in respect of IT software manufactured domestically.

Postal Imports:

11. Description of heading 9804 in the First Schedule is being amended to cover all dutiable items intended for personal use, imported by post or air and to prescribe a tariff rate of 35% for tariff items under the heading. However, the effective rate of duty for goods imported for personal use by post or air is being maintained at 10% in respect of imports which are exempted from any prohibition under the Foreign Trade (Development and Regulation) Act, 1992 through a notification. This would obviate the need for resorting to merit assessment of goods when they are imported by this mode and the value exceeds the limits prescribed under the FT(D & R) Act. Fourth Schedule of the and clause 57 (a)(i) of the Finance Bill, 2011 may be seen.

Export Duty:

12.1 The Second Schedule to the Customs Tariff Act is being recast so as to align the entries with the Harmonized System of Nomenclature (HSN) and introduce a new entry for de-oiled rice bran cake. Clause 57(b) read with the Sixth Schedule of the Finance Bill, 2011 may be referred to. The effective rates of export duty on all items other than iron ores lumps, fines and pellets; and de-oiled rice bran cake are being maintained through notification no. 27/2011-Customs dated 1st March, 2011.

12.2 The export duty on iron ore lumps and fines has been enhanced from 15% and 5% respectively to a uniform rate of 20%. Full exemption from export duty has been provided to iron ore pellets.

12.3 Export duty has been imposed at the rate of 10% on de-oiled rice bran cake with immediate effect.

Relief Measures:

13.1 Exemptions/ concessions have been provided to a number of items with a view to remove anomalies in the duty structure and enable domestic value addition/ production. The details of these changes are available in the relevant notifications as well as the Explanatory Notes. These may kindly be referred to.

13.2 Full exemption from import duty is available to works of art imported for exhibition in a public museum or national institution. The scope of this exemption is being expanded to include imports made for exhibition of works of art in private galleries that allow unrestricted access to general public, subject to the fulfillment of certain conditions.

13.3 In order to resolve ongoing disputes, certain clarificatory amendments have been made in exemption notifications/entries. Specifications have been prescribed for coking coal which is fully exempt from customs duty under S. No. 68 of notification No. 21/2002 dated 1st March, 2002 so that it may be distinguished from non-coking coal which attracts a duty of 5%. Similarly, an Explanation has been added to the entry at S. Nos 344 and 345 of the same notification to define a 'Completely Knocked Down' (CKD) unit of a vehicle to exclude a unit containing a pre-assembled engine, gearbox or transmission mechanism as well as a body

assembly on which a sub-assembly of assembled engine, gearbox or transmission mechanism is installed. The Explanation to Notification No. 14/2004–Customs dated 8Th January,2004 has been amended to clarify that a water supply project includes water pumping station and water storage facility. A similar amendment has been carried out in entry 26A of Notification No. 42/1996- Customs dated the 23rd July, 1997.

13.4 As a trade facilitation measure, it has been decided to reduce the security amount to be tendered at the time of registration of a contract under Project Import Regulations to 2% of the contract value with a ceiling of Rs.1 crore to be taken in the form of bank guarantee. It has also been decided that the bank guarantee would not be required to be renewed if the finalization is not completed within six months of the submission of the necessary documentation by the importer. Instructions contained in letter of even file number dated 1st March, 2011 may kindly be seen.

Legislative Amendments:

14.1 One of the highlights of the provisions of the Finance Bill, 2011 is the introduction of self-assessment in the Customs Act, 1962 both for imported goods and export goods. This would replace the existing legal requirement of assessment of every bill of entry or shipping bill by the Customs Officer. As you are aware, after the implementation of EDI and risk management system, the practice in most customs formations has been to carry out assessment on selected bills of entry based on risk parameters and to allow the balance to be facilitated. While aligning the legal provisions with the current practice, the proposed amendments would move the Customs administration further along the path of trust based compliance management. They would provide a basis for progressive reduction in the levels of Customs interdiction in clearance of import/export cargo leading to significant enhancement in facilitation for compliant trade. This would release resources for more incisive verification and audit of consignments that involve a high degree of risk enabling the department to strike an optimal balance between the concerns of trade facilitation on the one hand and enforcement on the other. For this purpose, the important amendments proposed in the provisions of the Customs Act are as under:

- (i) The definition of assessment in section 2 is being amended to include ‘self-assessment’.
- (ii) Section 17 which deals with assessment of duty has been recast to provide legal backing for self-assessment by the importer or exporter. It has also been provided that the customs officer may verify the assessment and have the goods tested or examined for this purpose. An obligation is also being cast on the importer or exporter to furnish any documents or information that may be required for such verification. Where it is found that the self-assessment is not in order, the customs officer is required to reassess the bill of entry and to issue a speaking order for the same unless the importer agrees with the reassessment. Barring cases where a speaking order is issued on reassessment, powers have also been assigned to customs officers to conduct audit either in their own office or at the premises of importer or exporter.
- (iii) Consequential amendments are being proposed in section 18 relating to provisional assessment. It is being provided that the importer may make a request for assessment of goods by the officer when he is not in a position to self-assess. The provisions of section

19 are also being amended to prescribe that the finalization of provisional assessment may be carried out by the proper officer. Other consequential amendments include amendments in section 46 and 50 to make the electronic filing of bills of entry/shipping bills the norm. Power is also being conferred on the Commissioner of Customs to permit filing in any other manner when electronic filing is infeasible. Section 157 is being amended to empower the Board to issue regulations for specifying the manner of conducting audit.

These provisions would come into effect on the date of enactment of Finance Bill, 2011. They may be examined carefully and suggestions/comments, if any, in this regard may be sent to the Board.

14.2 Sub-section (1) of section 27 is being substituted so as to enhance the time limit for claiming refund of duty and interest from six months to one year for all categories of importers. This would unify the provisions with regard to raising of demands and claiming of refund.

14.3 As in the case of Central Excise, Section 28 is being substituted so as to make the provisions relating to recovery of duty not levied or short levied or erroneously refunded more coherent and clear. There is no change in the content of this provision.

14.4 Section 28AA and 28AB are being substituted with a revised section 28AA so as to make the provisions relating to interest more coherent and clear. It is being provided that interest would be payable from the first day of the month succeeding the month in which the duty ought to have been paid or erroneously refunded. Pending enactment of the Finance Bill, 2011, notifications revising the rate of interest to 18% per annum has been issued under the existing provisions.

14.5 Section 110A is being amended to empower the adjudicating authority to allow release of seized goods instead of Commissioner of Customs.

14.6 Section 124 is being amended so as to provide for issuance of a show cause notice with prior approval of an officer not below the rank of an Assistant Commissioner of Customs as against Deputy Commissioner presently.

14.7 Section 131D is being inserted to empower the Board to issue instructions relating to non-filing of appeal in certain cases in line with National Litigation Policy retrospectively with effect from 20.10.2010.

14.8 A new section 142A is being inserted so as to create first charge on the property of the defaulter for recovery of the customs dues from such defaulter subject to the provisions of section 529A of the Companies Act, the Recovery of Debt due to Bank and Financial Institution Act, 1993 and Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

14.9 Section 150 is being amended so as to provide that the balance of sale proceeds of unclaimed cargo sold in auction shall be paid to the Government if they cannot be paid to the owner within six months.

14.10 Special provision is being made vide clause 54 of the Finance Bill, 2011 read with the Third Schedule to retrospectively provide a concessional basic customs duty of 30% to fresh garlic imported by National Consumer Cooperative Federation and Madhya Pradesh State Cooperative Marketing Federation under import licenses issued by the Central Government and cleared after 15.1.2003. This provision would come into force on the date of enactment of the Finance Bill, 2011. Pending cases of these importers pertaining to the period mentioned above may be identified and disposed off accordingly.

14.11 Special provision is being made vide clause 58 of the Finance Bill, 2011 read with the Seventh Schedule to impose definitive safeguard duty retrospectively on imports of caustic soda lye imported into India during the period from 04.12.2009 to 03.03.2010. This would validate the imposition of provisional safeguard duty on this product during the same period. This provision would come into force on the enactment of the Finance Bill.

14.12 Notification Nos.92/2004-Customs dated 10th September, 2004, 41/2005-Customs dated 9th May, 2004, 90/2006-Customs dated 1st September, 2006, 64/2008-Customs dated 9th May, 2008 and 136/2008-Customs dated 24th December, 2008 have been retrospectively amended (in the case of first four w.e.f. 1st April, 2008; and the remaining ones from the date of their issuance). Clause 53 read with Second Schedule of the Finance Bill refers. The implication of these amendments is that benefit of reward schemes such as the Served from India Scheme, Focus Market Scheme, Focus Product Scheme etc. would be available towards fulfillment of export obligation under EPCG Scheme. This would also come into force on the enactment of the Finance Bill.

14.13 Notification No.16/2011-Customs (N.T) dated 1st March, 2011 has been issued under section 11 of the Customs Act to restrict imports of acetate tow and filter rods except when they are used for manufacture of filter rods and filter cigarettes respectively.

15. Amendments in the Customs Tariff Act, 1975:

- a. Section 3 is being amended to substitute the reference to Standards of Weight & Measures Act, 1976 with Legal Metrology Act, 2009 with effect from 1.3.2011 as has been repealed by the latter. This change would be effective from the date of enactment of the Finance Bill, 2011.
- b. The First Schedule is being amended to include editorial changes in the Harmonized System of Nomenclature (HSN) in certain chapters, which would be effective from 01.01.2012.

These provisions would come into effect on the date of enactment of Finance Bill, 2011

16. In order to achieve a sharper focus, I have alluded only to the key highlights of the budgetary changes in this communication. The details are contained in the Finance Bill and notifications which alone have legal force. My team and I have made every possible effort to avoid the occurrence of errors or mistakes in the Budget documents. However, given the scale of

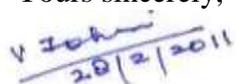
changes, errors cannot be ruled out. I shall be grateful if the provisions of the Finance Bill are studied carefully and feedback on issues that may need clarification is provided urgently.

17. It may kindly be ensured that the changes are implemented in a smooth manner without causing any inconvenience to the taxpayers and other stakeholders. All possible efforts may be made to guide the taxpayers by holding interactive sessions/ seminars for their benefit. In case of any doubt or difficulty, I would request you to bring it immediately either to my notice or to the notice of Shri Yogendra Garg, Director (TRU) (Tel No.011-23092236; e-mail: y.garg@nic.in) or Ms. Limatula Yaden, Director (TRU) (Tel No. 011-23092753; e-mail: l.yaden@nic.in).

18. Copies of Finance Bill, 2010, Finance Minister's Budget Speech, Explanatory Memorandum to the Bill, relevant notifications and Explanatory Notes etc. can be downloaded directly from www.indiabudget.nic.in as well as www.cbec.gov.in.

19. To conclude, my team and I would like to express my gratitude to you for the valuable suggestions, feedback and support and would look forward to your comments/ suggestions.

With regards and best wishes,

Yours sincerely,

(Vivek Johri)

To

All Chief Commissioners/ Directors General
All Commissioners of Customs
All Commissioners of Central Excise
All Commissioners of Customs and Central Excise
All Commissioners of Service Tax
Director DPPR/ Logistics/Legal Affairs/ Data Management