

Amendments made in Indirect-Tax Law

Amendments relating to Central Excise

1. Amendment of section 3A

In the Central Excise Act, 1944 (1 of 1944) (hereinafter referred to as the Central Excise Act), in section 3A, after *Explanation 2*, the following *Explanation* shall be inserted, namely :-

Explanation 3.— For the purposes of sub-sections (2) and (3), the word “factor” includes “factors”.

2. Amendment of section 11A

In the Central Excise Act, in section 11A,-

(i) sub-sections (5), (6) and (7) shall be omitted;

(ii) in sub-sections (7A), (8) and clause (b) of sub-section (11), the words, brackets and figure “or sub-section (5)”, wherever they occur, shall be omitted;

(iii) in *Explanation 1*, -

(A) in clause (b), in sub-clause (ii), the words “on due date” shall be omitted;

(B) after sub-clause (v), the following sub-clause shall be inserted, namely :-

“(vi) in the case where only interest is to be recovered, the date of payment of duty to which such interest relates.”;

(C) clause (c) shall be omitted;

(iv) after sub-section (15), the following sub-section shall be inserted, namely :-

“(16) The provisions of this section shall not apply to a case where the liability of duty not paid or short-paid is self-assessed and declared as duty, payable by the assessee in the periodic returns filed by him, and in such case, recovery of non-payment or short-payment of duty shall be made in such manner as may be prescribed.”.

(v) for *Explanation 2*, the following *Explanation* shall be substituted, namely :-

“Explanation 2. — For the removal of doubts, it is hereby declared that any non-levy, short-levy, non-payment, short-payment or erroneous refund where no show cause notice has been issued

Amendments as per Finance Act, 2015 - applicable for June 2016 and December 2016 terms of Examinations

before the date on which the Finance Bill, 2015 receives the assent of the President, shall be governed by the provisions of section 11A as amended by the Finance Act, 2015.”;

3. Substitution of new section for section 11AC

In the Central Excise Act, for section 11AC, the following section shall be substituted, namely :-

“11AC. Penalty for short-levy or non-levy of duty in certain cases. — (1) The amount of penalty for non-levy or short-levy or non-payment or short-payment or erroneous refund shall be as follows :-

(a) where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, for any reason other than the reason of fraud or collusion or any wilful mis-statement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay a penalty not exceeding ten per cent. of the duty so determined or rupees five thousand, whichever is higher :

Provided that where such duty and interest payable under section 11AA is paid either before the issue of show cause notice or within thirty days of issue of show cause notice, no penalty shall be payable by the person liable to pay duty or the person who has paid the duty and all proceedings in respect of said duty and interest shall be deemed to be concluded;

(b) where any duty as determined under sub-section (10) of section 11A and the interest payable thereon under section 11AA in respect of transactions referred to in clause (a) is paid within thirty days of the date of communication of the order of the Central Excise Officer who has determined such duty, the amount of penalty liable to be paid by such person shall be twenty-five per cent. of the penalty imposed, subject to the condition that such reduced penalty is also paid within the period so specified;

(c) where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of fraud or collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay a penalty equal to the duty so determined :
Provided that in respect of the cases where the details relating to such transactions are recorded in the specified record for the period beginning with the 8th April, 2011 up to the date on which the Finance Bill, 2015 receives the assent of the President (both days inclusive), the penalty shall be fifty per cent. of the duty so determined;

**Amendments as per Finance Act, 2015 - applicable for June 2016 and December
2016 terms of Examinations**

(d) where any duty demanded in a show cause notice and the interest payable thereon under section 11AA, issued in respect of transactions referred to in clause (c), is paid within thirty days of the communication of show cause notice, the amount of penalty liable to be paid by such person shall be fifteen per cent. of the duty demanded, subject to the condition that such reduced penalty is also paid within the period so specified and all proceedings in respect of the said duty, interest and penalty shall be deemed to be concluded;

(e) where any duty as determined under sub-section (10) of section 11A and the interest payable thereon under section 11AA in respect of transactions referred to in clause (c) is paid within thirty days of the date of communication of the order of the Central Excise Officer who has determined such duty, the amount of penalty liable to be paid by such person shall be twenty-five per cent. of the duty so determined, subject to the condition that such reduced penalty is also paid within the period so specified.

(2) Where the appellate authority or tribunal or court modifies the amount of duty of excise determined by the Central Excise Officer under sub-section (10) of section 11A, then, the amount of penalty payable under clause (c) of sub-section (1) and the interest payable under section 11AA shall stand modified accordingly and after taking into account the amount of duty of excise so modified, the person who is liable to pay duty as determined under sub-section (10) of section 11A shall also be liable to pay such amount of penalty and interest so modified.

(3) Where the amount of duty or penalty is increased by the appellate authority or tribunal or court over the amount determined under sub-section (10) of section 11A by the Central Excise Officer, the time within which the interest and the reduced penalty is payable under clause (b) or clause (e) of sub-section (1) in relation to such increased amount of duty shall be counted from the date of the order of the appellate authority or tribunal or court.

Explanation 1. — For the removal of doubts, it is hereby declared that—

(i) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where no show cause notice has been issued before the date on which the Finance Bill, 2015 receives the assent of the President shall be governed by the provisions of section 11AC as amended by the Finance Act, 2015;

(ii) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where show cause notice has been issued but an order determining duty under sub-section (10) of section 11A has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, shall be eligible to closure of proceedings on payment of duty and interest under the proviso to clause (a) of sub-section (1) or on payment of duty, interest and penalty under clause (d) of sub-section (1), subject to the condition that the payment of duty,

Amendments as per Finance Act, 2015 - applicable for June 2016 and December 2016 terms of Examinations

interest and penalty, as the case may be, is made within thirty days from the date on which the Finance Bill, 2015 receives the assent of the President;

(iii) any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where an order determining duty under sub-section (10) of section 11A is passed after the date on which the Finance Bill, 2015 receives the assent of the President shall be eligible to payment of reduced penalty under clause (b) or clause (e) of sub-section (1), subject to the condition that the payment of duty, interest and penalty is made within thirty days of the communication of the order.

Explanation 2. – For the purposes of this section, the expression “specified records” means records maintained by the person chargeable with the duty in accordance with any law for the time being in force and includes computerised records.”.

4. Amendment of section 31

In the Central Excise Act, in section 31, in clause (c), in the proviso, the words “in any appeal or revision, as the case may be,” shall be omitted.

5. Amendment of section 32

In the Central Excise Act, in section 32, in sub-section (3), the proviso shall be omitted.

6. Amendment of section 32B

In the Central Excise Act, in section 32B, for the words “, as the case may be, such one of the Vice-Chairmen”, at both the places where they occur, the words “the Member” shall be substituted.

7. Amendment of section 32E

In the Central Excise Act, in section 32E, sub-section (1A) shall be omitted.

8. Amendment of section 32F

In the Central Excise Act, in section 32F, in sub-section (6), for the words, figures and letters “on or before the 31st day of May, 2007, later than the 29th day of February, 2008 and in respect of an application made on or after the 1st day of June, 2007,” shall be omitted.

9. Omission of section 32H

In the Central Excise Act, section 32H shall be omitted.

Amendments as per Finance Act, 2015 - applicable for June 2016 and December 2016 terms of Examinations

10. Amendment of section 32K

In the Central Excise Act, in section 32K, in sub-section (1), the *Explanation* shall be omitted.

11. Amendment of section 32-O

In the Central Excise Act, in section 32-O, in sub-section (1),-

(a) in clause (i), the words, brackets, figures and letters "passed under sub-section (7) of section 32F, as it stood immediately before the commencement of section 122 of the Finance Act, 2007 (22 of 2007) or sub-section (5) of section 32F" shall be omitted;

(b) in clause (ii), the words, brackets, figures and letter "under the said sub-section (7), as it stood immediately before the commencement of section 122 of the Finance Act, 2007 (22 of 2007) or sub-section (5) of section 32F" shall be omitted.

12. Amendment of section 37

In the Central Excise Act, in section 37, in sub-sections (4) and (5), for the words "two thousand rupees", the words "five thousand rupees" shall be substituted.

13. Amendment of notification issued under section 5A of the Central Excise Act

(1) The notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 163 (E), dated the 17th March, 2012, issued under sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944) (hereinafter referred to as the Central Excise Act), shall stand amended and shall be deemed to have been amended, retrospectively, in the manner specified in column (2) of the Third Schedule, on and from and up to the date specified in column (3) of that Schedule.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notification with retrospective effect as if the Central Government had the power to amend the said notification under sub-section (1) of section 5A of the Central Excise Act, retrospectively, at all material times.

(3) Refund shall be made of all such duty of excise which has been collected but which would not have been so collected, had the notification referred to in sub-section (1), been in force at all material times, subject to the provisions of section 11B of the Central Excise Act.

(4) Notwithstanding anything contained in section 11B of the Central Excise Act, an application for the claim of refund of duty of excise under sub-section (3) shall be made within a period of six months from the date on which the Finance Bill, 2015 receives the assent of the President.

**Amendments as per Finance Act, 2015 - applicable for June 2016 and December
2016 terms of Examinations**

14. Amendment of Third Schedule

In the Central Excise Act, the Third Schedule shall be amended in the manner specified in the Fourth Schedule.

Amendments relating to Central Excise Tariff

15. Amendment of First Schedule

In the Central Excise Tariff Act, 1985 (hereinafter referred to as Central Excise Tariff Act), the First Schedule shall be amended in the manner specified in the Fifth Schedule.

Amendments relating to CENVAT Credit Rules

[Notification No. 6/2015-C.E.(N.T.) dated 01.03.2015]

Amendments w.e.f. 1.3.2015

1. Education Cess and Secondary & Higher Education Cess leviable on all excisable goods are fully exempted. Simultaneously the standard advalorem rate of duty of Excise, i.e. CENVAT is being increased from 12 to 12.5% w.e.f. 1.3.2015.

2. As per earlier provisions of sub-rule (1) of Rule 4, if inputs were directly delivered from supplier to job worker, the credit can be availed by the manufacturer only on receipt of the processed goods from the job worker. The said rule has now been amended to provide that even if the inputs are directly sent to the job worker on the directions of the manufacturer, credit can be availed immediately and the manufacturer need not wait for the processed goods to be received from the job worker.

Similarly, if the capital goods are sent directly to a job worker on the directions of a manufacturer or the service provider, the credit can be taken immediately to the extent of the 50% of the total duty paid on such capital goods in the same financial year.

3. As per the earlier provisions, CENVAT Credit was allowed to be availed on inputs and input services within six months from the date of invoice. This restriction have been extended to one year from the date of invoice.

4. The earlier provisions of Rule 4(5)(a), were applicable to both inputs and capital goods. As per the new provisions, separate provisions are made applicable for inputs and capital goods as under:

Amendments as per Finance Act, 2015 - applicable for June 2016 and December 2016 terms of Examinations

5. Provisions applicable for inputs - 4(5) (a) (i)

The credit shall be allowed on inputs if the inputs are sent to a job worker or even from one job worker to another job worker and likewise and the time limit for receiving the processed goods back by the manufacturer is within 180 days from the date of sending the inputs from the factory. Similarly, inputs can also be directly sent to a job worker without being first brought to the premises of a manufacturer subject to the condition that the processed goods should come back within 180 days from the date of receipt of the inputs by the job worker.

6. Provisions applicable for capital goods - 4(5)(a)(ii)

The credit on capital goods shall be allowed even if they are sent as such to a job worker for further processing subject to the condition that the same is received back within two years from the date of sending the capital goods from the factory. Similarly, capital goods can also be directly sent to a job worker without being first brought to the premises of a manufacturer subject to the condition that the capital goods should come back within two years from the date of receipt of the capital goods by the job worker.

In view of the above, as per the amended provisions, the time limit for receiving back the processed inputs from the job worker will continue to remain 180 days, while in case of capital goods the time limit has been increased to two years. Further, if the inputs/capital goods are not received back within the prescribed time limit, attributable credit on it needs to be reversed. However, as and when the same are received back from the job worker, the credit originally reversed can be restored by the manufacturer/service provider on their own.

7. For claiming refund of CENVAT credit under Rule 5 of CENVAT Credit Rules, 2004, the term "Export Goods" has been defined as any goods which are to be taken out of India to a place of out of India.

8. As per sub-rule (1) of Rule 6, CENVAT credit shall not be allowed on inputs used in relation to the manufacture of exempted goods. Explanation-I has been added to this sub-rule to provide that exempted goods shall include non-excisable goods cleared for a consideration from the factory. Further, as per Explanation-II of this sub-rule, value to be considered for such non-excisable goods for reversal of CENVAT credit to be made shall be the invoice value and where such value is not available, it will be determined by a reasonable means consistent with the principles of valuation contained in the Central Excise Act, and Rules.

9. Sub-rule (4) of Rule 9 provides for maintenance of records by the First Stage Dealer or the Second Stage Dealer. Now the said provisions are made applicable to an importer also who issues an invoice on which CENVAT credit can be taken.

10. As per Rule 12AAA, certain restrictions are imposed in order to avoid misuse of CENVAT credit by the manufacturer, first and second stage dealer, provider of taxable service or an exporter. The said restrictions are now applicable to a registered importer also.

11. Rule 14 has been amended to provide that where the credit has been taken wrongly and even if not utilized, the same can be recovered from manufacturer/service provider and the

Amendments as per Finance Act, 2015 - applicable for June 2016 and December 2016 terms of Examinations

provisions of Section 11A of the Central Excise Act, 1944 or Section 73 of the Finance Act, 1994 shall be applicable for effecting such recoveries.

Amendments w.e.f. 1.4.2015

12. Earlier, as per sub-rule (7) of Rule 4, in case of service tax paid by the service receiver under full reverse charge mechanism, CENVAT credit was allowed to be availed on making of service tax payment even if value of the service is not paid to the service provider. Similarly, in case of service tax paid under partial reverse charge mechanism, CENVAT credit was allowed to be availed on making payment of value of service as well as portion of the service tax payable by the service receiver.

Now as per the amended provisions, the service tax paid both under partial and full reverse charge by the service receiver, credit of service tax payable by the service recipient is allowed to be availed after making payment of service tax and even if value of the service is not paid. However, if the payment of value of input service and the service tax paid as indicated in the invoice of the manufacturer/service provider is not made within three months of the date of the invoice, the manufacturer/service provider has to reverse the credit availed, and as and when the payment of the value and service tax thereon as indicated in the invoice is made to the service provider, the credit can be restored on their own, by the manufacturer/service provider.

13. Payment to be made by the manufacturer/service provider by debiting the CENVAT credit account or otherwise, on or before 5th/6th of the following month except in March where payment shall be made on or before 31st March, the same was earlier applicable only for sub-rule (7) of Rule 4, which has now been made applicable to entire Rule 4. Therefore all the debits/CENVAT credit reversals to be made under this Rule are to be made only at the month-end along with duty paid on normal finished goods clearances.

Amendments w.e.f. enactment of Finance Act.

14. As per rule 15, in case of CENVAT credit wrongly taken or utilized on inputs, capital goods or input services, earlier the penal provisions under Section 11AC of the Central Excise Act was not applicable, if the credit wrongly availed is not by a reason of fraud, collusion or any willful mis-statement or suppression of fact, etc. However, as per the amended provisions of Rule 15, even if merely by availing or utilizing the credit wrongly without by reason of fraud or collusion, etc., the provisions of Section 11 AC of Central Excise Act, 1944 or Section 76 of the Finance Act, 1944, will now get attracted.

15. Restrictions on utilization of CENVAT Credit [Notification No. 25/2014-CE(NT) dated 25.08.2014]

In case of misuse of CENVAT credit, certain restrictions are provided on the assessee, such as utilization of CENVAT credit, suspension of registration, etc. These restrictions were earlier applicable only to manufacturer, first stage/ second stage dealers and exporters. By amending Rule 12AAA of CENVAT Credit Rules, 2004, these restrictions are made applicable to a provider of taxable services also.

Amendments as per Finance Act, 2015 - applicable for June 2016 and December 2016 terms of Examinations

16. Documents for availing CENVAT Credit [Notification No.26/2014-CE(NT) dated 27.08.2014]

Services provided in relation to transport of goods by rail became a taxable service w.e.f. 1.10.2012, accordingly a new clause (fa) has been inserted in Rule 9(1) of CENVAT Credit Rules, 2004, to allow certificate issued by Railways to be a valid a duty paying document for availing credit.

17. Place of Removal [Circular No. 988/12/2014-CX dated 20.10.2014]

With effect from 11.7.2014, the definition of "Place of removal" has been added in the CENVAT Credit Rules, 2004. Accordingly, CBEC has clarified the place where sale has taken place or when the property in goods passes from the seller to the buyer is the relevant consideration to determine the place of removal.

18. CENVAT Credit for Cellular Service Provider [F. No. 267/60/2014-CX.8 dated 11.11.2014]

Cellular Mobile Service Provider is not entitled to avail CENVAT credit on Tower Parts & Pre-fabricated buildings. This is based on Judgement of Hon'ble Bombay High Court in the case of M/s Bharti Airtel Ltd. vs. CCE, Pune III (2014-TIOL-1452-HC-MUM-ST).

19. Recredit of CENVAT credit reversed earlier [Circular No. 990/14/2014-CX-8 dated 19.11.2014]

Clarification issued by CBEC regarding non-applicability of six months' time limit for availing recredit of the CENVAT credit reversed earlier under three different situations.

20. Utilisation of Education Cess and Secondary and Higher Education Cess [Notification No. 12/2015-C.E. (N.T.), dated 30-4-2015]

In rule 3, in sub-rule (7), in clause (b), after the second proviso, the following shall be substituted, namely :-

“Provided also that the credit of Education Cess and Secondary and Higher Education Cess paid on inputs or capital goods received in the factory of manufacture of final product on or after the 1st day of March, 2015 can be utilized for payment of the duty of excise leviable under the First Schedule to the Excise Tariff Act :

Provided also that the credit of balance fifty per cent. Education Cess and Secondary and Higher Education Cess paid on capital goods received in the factory of manufacture of final product in the financial year 2014-15 can be utilized for payment of the duty of excise specified in the First Schedule to the Excise Tariff Act :

Provided also that the credit of Education Cess and Secondary and Higher Education Cess paid on input services received by the manufacturer of final product on or after the 1st day of March, 2015 can be utilized for payment of the duty of excise specified in the First Schedule to the Excise Tariff Act.”.

21. Revision of rate of Central Excise duty for assessee opting not to maintain separate accounts [Notification No. 14/2015-C.E. (N.T.), dated 19-5-2015, w.e.f. 01-06-15]

In the CENVAT Credit Rules, 2004, in rule 6, in sub-rule (3), -

(a) in clause (i), after the words “goods and”, the words “seven per cent. of value of the” shall be inserted.

(b) in the second proviso, for the word “six”, the word “seven” shall be substituted.

**Amendments as per Finance Act, 2015 - applicable for June 2016 and December
2016 terms of Examinations**

**22. Refund of Cenvat credit to service provider providing services taxed on reverse charge basis
[Notification No. 15/2015-C.E. (N.T.), dated 19-5-2015]**

In exercise of the powers conferred by rule 5B of the CENVAT Credit Rules, 2004, the Central Board of Excise and Customs hereby makes the following amendments in the notification No. 12/2014-C.E (N.T.), dated 3rd March, 2014, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 139(E), dated the 3rd March, 2014, except as thing done or omitted to be done with respect to supply of manpower for any purpose or security services upto and including 31st March, 2015, namely :-

In the said notification,

- (i) In paragraph 1, relating to safeguards, conditions and limitations, in sub-paragraph (a), clause (ii) shall be omitted;
- (ii) In Form A, in paragraph (a), in the table, Sl. No. 2 and the entries relating thereto shall be omitted.

Amendments relating to Customs Act

1. Amendment of section 28

In the Customs Act, 1962 (52 of 1962) (hereinafter referred to as the Customs Act), in section 28,—

(a) in sub-section (2), the following proviso shall be inserted, namely :—

“Provided that where notice under clause (a) of sub-section (1) has been served and the proper officer is of the opinion that the amount of duty along with interest payable thereon under section 28AA or the amount of interest, as the case may be, as specified in the notice, has been paid in full within thirty days from the date of receipt of the notice, no penalty shall be levied and the proceedings against such person or other persons to whom the said notice is served under clause (a) of sub-section (1) shall be deemed to be concluded.”;

(b) in sub-section (5), for the words “twenty-five per cent.”, the words “fifteen per cent.” shall be substituted;

(c) after *Explanation 2*, the following *Explanation* shall be inserted, namely :—

“Explanation 3.— For the removal of doubts, it is hereby declared that the proceedings in respect of any case of non-levy, short-levy, non-payment, short-payment or erroneous refund where show cause notice has been issued under sub-section (1) or sub-section (4), as the case may be, but an order determining duty under sub-section (8) has not been passed before the date on which the Finance Bill, 2015 receives the assent of the President, shall, without prejudice to the provisions of sections 135, 135A and 140, as may be applicable, be deemed to be

Amendments as per Finance Act, 2015 - applicable for June 2016 and December 2016 terms of Examinations

concluded, if the payment of duty, interest and penalty under the proviso to sub-section (2) or under sub-section (5), as the case may be, is made in full within thirty days from the date on which such assent is received.”.

2. Amendment of section 112

In the Customs Act, in section 112, in clause (b), for sub-clause (ii), the following sub-clause shall be substituted, namely:-

“(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher :

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;”.

3. Amendment of section 114

In the Customs Act, in section 114, for clause (ii), the following clause shall be substituted, namely:—

“(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher :

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;”.

4. Amendment of section 127A

In the Customs Act, in section 127A, in clause (b), in the proviso, the words “in any appeal or revision, as the case may be,” shall be omitted.

5. Amendment of section 127B

In the Customs Act, in section 127B, sub-section (1A) shall be omitted.

**Amendments as per Finance Act, 2015 - applicable for June 2016 and December
2016 terms of Examinations**

6. Amendment of section 127C

In the Customs Act, in section 127C, sub-section (6) shall be omitted.

7. Omission of section 127E

In the Customs Act, section 127E shall be omitted.

8. Amendment of section 127H

In the Customs Act, in section 127H, in sub-section (1), the *Explanation* shall be omitted.

9. Amendment of section 127L

In the Customs Act, in section 127L, in sub-section (1),—

(a) in clause (i), the words, brackets, figures and letters “passed under sub-section (7) of section 127C, as it stood immediately before the commencement of section 102 of the Finance Act, 2007 (22 of 2007) or sub-section (5) of section 127C” shall be omitted;

(b) in clause (ii), the words, brackets, figures and letter “under said sub-section (7), as it stood immediately before the commencement of section 102 of the Finance Act, 2007 (22 of 2007) or sub-section (5) of section 127C” shall be omitted.

Amendments relating to Customs Tariff

10. Amendment of First Schedule

In the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act), the First Schedule shall be amended in the manner specified in the Second Schedule.

Amendments relating to Service Tax

1. Amendment of section 65B

In the Finance Act, 1994 (32 of 1994.) (hereinafter referred to as the 1994 Act), save as otherwise provided, in section 65B, —

(a) clause (9) shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint;

(b) after clause (23), the following clause shall be inserted, namely :—

(23A) “foreman of chit fund” shall have the same meaning as is assigned to the term “foreman” in clause (j) of section 2 of the Chit Funds Act, 1982 (40 of 1982);”;

Amendments as per Finance Act, 2015 - applicable for June 2016 and December 2016 terms of Examinations

(c) clause (24) shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint;

(d) after clause (26), the following clause shall be inserted, namely :—

'(26A) "Government" means the Departments of the Central Government, a State Government and its Departments and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made thereunder;';

(e) after clause (31), the following clause shall be inserted, namely :—

'(31A) "lottery distributor or selling agent" means a person appointed or authorised by a State for the purposes of promoting, marketing, selling or facilitating in organising lottery of any kind, in any manner, organised by such State in accordance with the provisions of the Lotteries (Regulation) Act, 1998 (17 of 1998);'

(f) in clause (40), the words "alcoholic liquors for human consumption," shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint;

(g) in clause (44), for *Explanation 2*, the following *Explanation* shall be substituted, namely :—

'Explanation 2. - For the purposes of this clause, the expression "transaction in money or actionable claim" shall not include —

- (i) any activity relating to use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;
- (ii) any activity carried out, for a consideration, in relation to, or for facilitation of, a transaction in money or actionable claim, including the activity carried out —
 - (a) by a lottery distributor or selling agent in relation to promotion, marketing, organising, selling of lottery or facilitating in organising lottery of any kind, in any other manner;
 - (b) by a foreman of chit fund for conducting or organising a chit in any manner.'

(h) clause (49) shall be omitted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 66B

In section 66B of the 1994 Act, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the words "twelve per cent.", the words "fourteen percent." shall be substituted.

3. Amendment of section 66D

In section 66D of the 1994 Act, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, —

(1) in clause (a), in sub-clause (iv), for the words "support services", the words "any service" shall be substituted;

Amendments as per Finance Act, 2015 - applicable for June 2016 and December 2016 terms of Examinations

(2) for clause (f), the following clause shall be substituted, namely :—

“(f) services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption;”;

(3) in clause (i), the following *Explanation* shall be inserted, namely :—

'Explanation. - For the purposes of this clause, the expression “betting, gambling or lottery” shall not include the activity specified in *Explanation 2* to clause (44) of section 65B;”;

(4) clause (j) shall be omitted.

4. Amendment of section 66F

In section 66F of the 1994 Act, in sub-section (1), the following *Illustration* shall be inserted, namely :—

'Illustration:

The services by the Reserve Bank of India, being the main service within the meaning of clause (b) of section 66D, does not include any agency service provided or agreed to be provided by any bank to the Reserve Bank of India. Such agency service, being input service, used by the Reserve Bank of India for providing the main service, for which the consideration by way of fee or commission or any other amount is received by the agent bank, does not get excluded from the levy of service tax by virtue of inclusion of the main service in clause (b) of the negative list in section 66D and hence, such service is leviable to service tax.’.

5. Amendment of section 67

In section 67 of the 1994 Act, in the *Explanation*, for clause (a), the following clause shall be substituted, namely :—

'(a) “consideration” includes —

- (i) any amount that is payable for the taxable services provided or to be provided;
- (ii) any reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions, as may be prescribed;
- (iii) any amount retained by the lottery distributor or selling agent from gross sale amount of lottery ticket in addition to the fee or commission, if any, or, as the case may be, the discount received, that is to say, the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such ticket.’.

6. Amendment of section 73

In section 73 of the 1994 Act, —

(i) after sub-section (1A), the following sub-section shall be inserted, namely :—

“(1B) Notwithstanding anything contained in sub-section (1), in a case where the amount of service tax payable has been self-assessed in the return furnished under sub-section (1) of section 70, but not paid either in full or in part, the same shall be recovered along with interest

Amendments as per Finance Act, 2015 - applicable for June 2016 and December 2016 terms of Examinations

thereon in any of the modes specified in section 87, without service of notice under sub-section (1).”;

(ii) sub-section (4A) shall be omitted.

7. Substitution of new section for section 76

For section 76 of the 1994 Act, the following section shall be substituted, namely :—

“76. Penalty for failure to pay service tax. — (1) Where service tax has not been levied or paid, or has been short-levied or short-paid, or erroneously refunded, for any reason, other than the reason of fraud or collusion or wilful mis-statement or suppression of facts or contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax, the person who has been served notice under sub-section (1) of section 73 shall, in addition to the service tax and interest specified in the notice, be also liable to pay a penalty not exceeding ten per cent. of the amount of such service tax :

Provided that where service tax and interest is paid within a period of thirty days of —

- (i) the date of service of notice under sub-section (1) of section 73, no penalty shall be payable and proceedings in respect of such service tax and interest shall be deemed to be concluded;
- (ii) the date of receipt of the order of the Central Excise Officer determining the amount of service tax under sub-section (2) of section 73, the penalty payable shall be twenty-five per cent. of the penalty imposed in that order, only if such reduced penalty is also paid within such period.

(2) Where the amount of penalty is increased by the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be, over the above the amount as determined under sub-section (2) of section 73, the time within which the reduced penalty is payable under clause (ii) of the proviso to sub-section (1) in relation to such increased amount of penalty shall be counted from the date of the order of the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be.”.

8. Substitution of new section for section 78

For section 78 of the 1994 Act, the following section shall be substituted, namely :—

“78. Penalty for failure to pay service tax for reasons of fraud, etc. — (1) Where any service tax has not been levied or paid, or has been short-levied or short-paid, or erroneously refunded, by reason of fraud or collusion or wilful mis-statement or suppression of facts or contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax, the person who has been served notice under the proviso to sub-section (1) of section 73 shall, in addition to the service tax and interest specified in the notice, be also liable to pay a penalty which shall be equal to hundred per cent. of the amount of such service tax .

Provided that in respect of the cases where the details relating to such transactions are recorded in the specified records for the period beginning with the 8th April, 2011 upto the date on which the Finance Bill, 2015 receives the assent of the President (both days inclusive), the penalty shall be fifty per cent. of the service tax so determined :

Provided further that where service tax and interest is paid within a period of thirty days of —

Amendments as per Finance Act, 2015 - applicable for June 2016 and December 2016 terms of Examinations

(i) the date of service of notice under the proviso to sub-section (1) of section 73, the penalty payable shall be fifteen per cent. of such service tax and proceedings in respect of such service tax, interest and penalty shall be deemed to be concluded;

(ii) the date of receipt of the order of the Central Excise Officer determining the amount of service tax under sub-section (2) of section 73, the penalty payable shall be twenty-five per cent. of the service tax so determined :

Provided also that the benefit of reduced penalty under the second proviso shall be available only if the amount of such reduced penalty is also paid within such period :

Explanation. — For the purposes of this sub-section, "specified records" means records including computerised data as are required to be maintained by an assessee in accordance with any law for the time being in force or where there is no such requirement, the invoices recorded by the assessee in the books of accounts shall be considered as the specified records.

(2) Where the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be, modifies the amount of service tax determined under sub-section (2) of section 73, then, the amount of penalty payable under sub-section (1) and the interest payable thereon under section 75 shall stand modified accordingly, and after taking into account the amount of service tax so modified, the person who is liable to pay such amount of service tax, shall also be liable to pay the amount of penalty and interest so modified.

(3) Where the amount of service tax or penalty is increased by the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be, over and above the amount as determined under sub-section (2) of section 73, the time within which the interest and the reduced penalty is payable under clause (ii) of the second proviso to sub-section (1) in relation to such increased amount of service tax shall be counted from the date of the order of the Commissioner (Appeals), the Appellate Tribunal or the court, as the case may be.

9. Insertion of new section 78B

After section 78A of the 1994 Act, the following section shall be inserted, namely :—

"78B. Transitory provisions. — **(1)** Where, in any case,—

(a) service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded and no notice has been served under sub-section (1) of section 73 or under the proviso thereto, before the date on which the Finance Bill, 2015 receives the assent of the President; or

(b) service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded and a notice has been served under sub-section (1) of section 73 or under the proviso thereto, but no order has been passed under sub-section (2) of section 73, before the date on which the Finance Bill, 2015 receives the assent of the President, then, in respect of such cases, the provisions of section 76 or section 78, as the case may be, as amended by the Finance Act, 2015 shall be applicable.

(2) In cases where show cause notice has been issued under sub-section (1) of section 73 or under the proviso thereto, but no order has been passed under sub-section (2) of section 73 before the date on which the Finance Bill, 2015 receives the assent of the President, the period of thirty days for the purpose of closure of proceedings on the payment of service tax and interest under clause (i) of the proviso to sub-section (1) of section 76 or on the payment of service tax, interest and penalty under clause (i) of the second proviso to sub-section (1) of

Amendments as per Finance Act, 2015 - applicable for June 2016 and December 2016 terms of Examinations

section 78, shall be counted from the date on which the Finance Bill, 2015 receives the assent of the President."

10. Omission of section 80

Section 80 of the 1994 Act (1 of 1994) shall be omitted.

11. Amendment of section 86

In section 86 of the 1994 Act, in sub-section (1), —

(a) for the words "Any assessee", the words "Save as otherwise provided herein, an assessee" shall be substituted;

(b) the following provisos shall be inserted, namely :-

"Provided that where an order, relating to a service which is exported, has been passed under section 85 and the matter relates to grant of rebate of service tax on input services, or rebate of duty paid on inputs, used in providing such service, such order shall be dealt with in accordance with the provisions of section 35EE of the Central Excise Act, 1944 (1 of 1944) :

Provided further that all appeals filed before the Appellate Tribunal in respect of matters covered under the first proviso, after the coming into force of the Finance Act, 2012 (23 of 2012), and pending before it up to the date on which the Finance Bill, 2015 receives the assent of the President, shall be transferred and dealt with in accordance with the provisions of section 35EE of the Central Excise Act, 1944 (1 of 1944)."

12. Amendment of section 94

In section 94 of the 1994 Act, in sub-section (2), for clause (aa), the following clause shall be substituted, namely :—

"(aa) determination of the amount and value of taxable service, the manner thereof, and the circumstances and conditions under which an amount shall not be a consideration, under section 67;"