

# Amendments as per Finance (No.2) Act, 2014 - applicable for June 2015 and December 2015 terms of Examinations

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## AMENDMENTS MADE IN INDIRECT TAX ACT

### A. CENTRAL EXCISE

#### 1. Rate of Excise Duty

[Effective from 11-07- 2014, unless otherwise stated]

#### 1.1 General

- Standard & concessional Rate of Duty maintained at 12% & 6% respectively.

#### 1.2 Changes in Duty of Certain Goods

- **National Technical Research Organisation [Notification No. 10/2014- C.E. dated 11/07/2014]** - Full exemption from Excise Duty is being provided to goods supplied to National Technical Research Organisation (NTRO).
- **Plant & Equipment supplied to projects financed by the UN or an international organization [Notification No. 11/2014 - C.E. dated 11/07/2014]**- Plants & Equipment supplied prior to 2008 for use in projects financed by the UN or an international organization, which hitherto could not be transferred / sold out of the project site, are now being allowed to be transferred / sold from the project site subject to the conditions specified therein.
- **LPG [Notification No. 12/2014- C.E. dated 11/07/2014]** - Earlier Liquefied propane and Butane Mixture, Liquefied Propane, Liquefied Butane and Liquefied Petroleum Gases (LPG) were exempted for supply to household domestic consumers only. With this budget, the exemption would also apply to such goods supplied to Non-Domestic Exempted Category (NDEC) customers from specified suppliers namely Indian oil Corporation Ltd., Hindustan Petroleum Corporation Ltd. or Bharat Petroleum Corporation Ltd.
- **EVA Sheets [Notification No. 12/2014 - C.E. dated 11/07/2014]**- Full exemption from excise duty is being provided to specified raw materials used in the manufacture of back - sheet and EVA sheet for manufacture of solar photovoltaic cells or modules.
- **Dichloro Diphenyl Trichloroethane [Notification No.12/2014-C.E. dated 11/07/2014]**- Full exemption from excise duty is being provided to DDT (Dichloro Diphenyl Trichloroethane) manufactured by Hindustan Insecticides Limited for supply to the National Vector Borne Diseases Control Programme (NVBDCP) of the Ministry of Health & Family Welfare.
- **Plastic Materials manufactured by EOU out of Waste & Scrap [Notification No. 12/2014- C.E. dated 11/07/2014]** - Full exemption from excise duty is being provided on plastic materials reprocessed out of the scrap or waste and cleared into the DTA by an EOU. This would bring EOU at par with domestic and SEZ Units.
- **Polyester Staple Fibre and Polyester Filament Yarn [Notification No. 8/2014 - C.E. dated 11/07/2014 and Notification No. 12/2014 -C.E. dated 11/07/2014]** - Excise duty at the rate of 2% (without CENVAT) or 6% (with CENVAT) has been provided in Polyester Staple Fibre and Polyester Filament Yarn manufactured from plastic waste or scrap or plastic waste including waste polyethylene terephthalate (PET) bottles.
- **Footwear [Notification No. 12/2014 - C.E. dated 11/07/2014]** - Excise duty is being reduced from 12% to 6% on footwear of retail price exceeding ₹ 500 per pair but not exceeding ₹ 1,000 per pair. Footwear of retail price up to ₹ 500 per pair will continue to remain exempted.
- **Solar Tempered Glass [Notification No. 12/2014 - C.E. dated 11/07/2014]**- Full exemption from excise duty is being provided on solar tempered glass used in the manufacture of solar photovoltaic cells or modules, solar power generating equipment or systems and flat plate solar collectors.

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- **Forged Steel Rings [Notification No. 12/2014-C.E. dated 11/07/2014]** - Excise duty is being reduced from 12% to Nil on forged steel rings used in the manufacture of bearings of wind operated electricity generators.
- **Flat Copper Wire [Notification No. 12/2014-C.E. dated 11/07/2014]**-Full exemption from excise duty is being provided on flat copper wire used in the manufacture of PV ribbons (tinned copper interconnect) for use in the manufacture of solar cells or modules.
- **Reverse Osmosis Membrane [Notification No. 12/2014 - C.E. dated 11/07/2014]** - Full exemption from excise duty is being provided to reverse osmosis (RO) membrane element for water filtration or purification equipment (other than household type filter).
- **RO Membrane [Notification No. 12/2014-C.E. dated 11/07/2014]**- Excise duty on RO membrane element used in household type filters has been reduced to 6%.
- **Machinery used for preparing, manufacturing and packaging specified commodities [Notification No. 12/2014-C.E. dated 11/07/2014]**- Excise duty on machinery for the preparation of meat, poultry, fruits, nuts or vegetables, and on presses, crushers and similar machinery used in the manufacture of wine, cider, fruit juices or similar beverages and on packaging machinery is being reduced from 10% to 6%.
- **Metal core PCB and LED driver [Notification No. 12/2014 -C.E. dated 11/07/2014]**- Excise duty on Metal Core PCB and LED driver for use in the manufacture of LED lights and fixtures and LED lamps is being reduced from 12% /10% to 6%.
- **Manufacturing of Non- Conventional energy devices [Notification No. 12/2014- C.E. dated 11/07/2014]**- Full exemption from excise duty is being provided to parts consumed within the factory of production for the manufacture of non- conventional energy devices, and when such use in elsewhere than in the factory of production, the exemption is being allowed subject to actual user condition.
- **Parts of Tractors [Notification No. 12/2014- C.E. dated 11/07/2014]** - Excise duty is being exempted on parts of tractors removed from one or more factories of a tractor manufacturer to another factory of the same manufacturer for manufacture of tractors.
- **Recorded smart cards [Notification No. 8/2014, 9/2014 and 12/2014-C.E. dated 11/07/2014]** - Excise duty on recorded smart cards has been increased from 2% without CENVAT and 6% with CENVAT to a uniform rate of 12%.
- **HIV/AIDS drugs and diagnostic kits [Notification No. 13/2014-C.E. dated 11/07/2014]** - Full exemption from excise duty is being provided on specified HIV/AIDS drugs and diagnostic kits supplied under National AIDS Control Programme (NACP) funded by the Global Fund to Fight AIDS, TB and Malaria (GFATM).
- **BIO-CNG [Notification No.14/2014-C.E. dated 11/07/2014]** - Full exemption from excise duty has been provided on machinery, equipments, etc. required for initial setting up of compressed biogas plant (Bio---CNG).
- **Solar energy production projects [Notification No. 14/2014-C.E. dated 11/07/2014]** - Full exemption from excise duty has been granted in respect of machinery, equipments, etc. required for initial setting up of solar energy production projects.
- **Pan Masala [Notification No. 16/2014 -C.E. dated 11/07/2014]** - The rates have been substituted/modified vide this notification.
- **Tobacco [Notification No.17/2014-C.E. dated 11/07/2014]** - The rates have been substituted/modified vide this notification.
- **EOU to DTA [Notification No. 18/2014-C.E. dated 11/07/2014]** - Education cess and secondary & higher education cess (customs component) has been exempted on goods cleared by an EOU to DTA.
- **Clean energy cess [Notification No. 20/2014- C.E. dated 11/07/2014]** - The Tenth Schedule to the Finance Act, 2010 dealing with Clean Energy Cess has been amended so as to expand the scope of purposes of levy of the said cess to include clean environment initiatives and funding research in the area of clean environment. The Clean Energy cess has been increased from ₹50 per tonne to ₹100 per tonne.

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## 2.0 Amendments to the Central Excise Act, 1944

[Effective from enactment of Finance Bill, unless otherwise stated]

### 2.1 **Major Revamp in Appellate Proceedings – Amount of pre-deposit stipulated in the Act itself [Section 35F]**

Section 35F has been proposed to be amended to prescribe a mandatory pre-deposit for entertaining appeals by the Commissioner (Appeals) or Tribunal –

SI No.	Appeal Pending Before	Mandatory Pre-deposit
1	Commissioner (Appeals)	7.5% of duty amount, penalty or both
2	Appellate Tribunal against order of Commissioner of Central Excise	7.5% of duty amount, penalty or both
3	Appellate Tribunal against order of Commissioner of Central Excise (Appeals)	10% of duty amount, penalty or both

The aforesaid pre-deposit would be subject to a ceiling limit of INR 10 Crs.

With this proposition, the concept of stay hearing appears to be dispensed away with. This is a welcome change for both assessees as well as the Appellate Forums; however, it may cause undue financial hardship to the assessee in cases where the proceedings have been initiated out of thin air without any merits.

### 2.2 **Monetary Limit for refusal of admittance of appeal by Appellate Tribunal increased from 'fifty thousand' to 'two lakh rupees' [Section 35D]**

The monetary limit of duty, fines or penalty prescribed for discretionary power of Tribunal to refuse admittance of cases has been increased from 'Fifty Thousand Rupees' to 'Two Lakh Rupees'.

Considering that the amount of pre-deposit has been stipulated in the statute itself, the requirement to dispose the appeal within 180 days of stay has been omitted.

### 2.3 **Scope of Advance Ruling expanded [Section 23A of the Central Excise Act, 1944]**

[No. 18/2014-Central Excise (N.T.) dated 11-07-2014]

In terms with power conferred under Section 23A(c)(iii), the Central Government has included the 'Resident Private Limited Company' as class of persons eligible to apply for Advance Ruling. Earlier, the Central Government vide Notification no. 4/2013- CE (NT) dated 01-03-2013 has notified "the resident public limited company" as a person eligible for seeking Advance Ruling. Hence, with this proposed amendment, both resident public limited companies & private limited companies would be eligible for seeking Advance Ruling. This proposed aimed to minimise disputes arising in future.

### 2.4 **Information Return required to be filed [Section 15A & 15B]**

The Finance Bill provides that the specified persons shall have to furnish an information return containing details of payment of tax and other details or transaction of goods or services or transactions related to a bank account or consumption of electricity or transaction of purchase, sale etc. for the purpose of identifying tax evaders and penalty shall be imposed on such person if the information return is not duly submitted.

### 2.5 **Amendment in provisions for filing application before Settlement Commission**

The Finance Bill has proposed that an application before Settlement Commission can only be filed after payment of interest on delayed payment of duty under Section 11AA. Further, it has been proposed that Settlement Commission may also allow application in cases where the appellant has not filed the returns, after recording the reasons for the same.

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Hitherto the Assesses were not allowed to file application before expiry of one hundred eighty days from the date of seizure, in case the books of accounts of the assessee have been seized. This rule has also been proposed to be omitted.

### **2.6 Power of Board to condone delay for review by committee of Chief Commissioners**

Section 35E has been proposed to be amended by inserting a proviso in sub-section (3) to vest the Board with powers to condone delay for a period up to 30 days for review by the Committee of Chief Commissioners of the orders in original passed by the Commissioner of Central Excise.

### **2.7 Appeal against Tribunal orders for disputes relating to taxability or excisability of goods shall lie before Supreme Court**

Section 35L is being amended so as to clarify that determination of disputes relating to 'taxability or excisability of goods' is covered under the term 'determination of any question having a relation to rate of duty' and hence, appeal against Tribunal orders in such matters would lie before the Supreme Court.

### **3.0 Amendments to the Central Excise Rules, 2002**

[Effective from 11th July 2014, unless otherwise stated]

#### **3.1 Respite from the Draconian Provision of Rule 8 (3A):**

[No. 19/2014- Central Excise (N.T.) dated 11-07-2014]

Earlier Rule 8(3A) of the Central Excise Rules, 2002 provided that following repercussion would take place in case of non-payment of Excise Duty within the Prescribed Time Limit of 30 days from the Due Date of Payment:

- (a) Payment needs to be made towards Excise Duty on removal of each consignment at the time of removal [i.e. No Monthly Payment Facility would be available]; and
- (b) No CENVAT Credit would be available i.e. Entire payment needs to be made from Personal Ledger Account (PLA) [i.e. No CENVAT Credit Facility would be available]

This draconian Provision has severely dented the financial position of the genuine bonafide manufactures, who are not being able to pay Excise Duty due to financial predicament being faced by them. Owing to delay in payment of Excise Duty, the department used to move ahead with direction for reversal of CENVAT Credit taken for the delayed period by way of payment in cash through PLA. The Hon'ble Tribunals in the case of **Baba Viswakarma Engg Co. v. CCE (2012) 278 ELT 68 (CESTAT), Solar Chemferts v. CCE (2012) 276 ELT 273 (CESTAT) and Rajasthan Tools v. CCE, Jaipur (2013) 295 ELT 54 (CESTAT)** has held that payment of duty in cash (equal to CENVAT Credit taken) and taking re-credit of the equivalent amount is not required if the defaulted amount is paid along with interest. However, there have been adverse judgments also seeking for payment of Excise Duty (equal to CENVAT Credit taken) in cash for the default period. Considering the contradictory views on Rule 8(3A) taken by different Judicial Forums and the draconian nature of the provisions, a respite was at most required.

Through this Budget, it has been proposed that the Existing Rule 8 (3A) of the Central Excise Rules, 2002 would be done away with and would be replaced with a simpler. Under the new Rule, a penalty of 1% of amount of duty unpaid would be payable for each month or part thereof calculated from the due date, for the period during which such failure continue.

We welcome this change as it relieves the manufactures from paying duty on removal of each consignment at the time of removal and allow usage of CENVAT Credit during the default period also.

#### **3.2 Excise Payments to be made electronically through internet banking [Rule 8 (1B) inserted in Central Excise Rules, 2002]**

[No. 19/2014-Central Excise (N.T.) dated 11-07-2014 w. e. f. 01-10-2014]

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With a proposed insertion of Rule 8(IB) in Central Excise Rules, 2002, now the assessee would be required to pay Excise Duty electronically through Internet Banking, irrespective of the amount involved. The Third Proviso to Rule 8(1) providing a threshold limit of total duty (including utilization through CENVAT Credit) of INR 1 Lakhs (with effect from 1st January, 2014 vide **Notification 15/2013-CE (N.T.) dated 22-11-2013**) below which an assessee was not mandatorily required to pay electronically has been dispensed away with in this Budget. However, a power has been vested with the Assistant Commissioner or the Deputy Commissioner of Central Excise to allow an assessee to pay duty by any mode other than internet banking, for reasons to be recorded in writing by the Authorities.

#### 4.0 Amendments to Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000

[Effective from 11th July 2014, unless otherwise stated]

##### **Levy of Excise duty on sale of goods at loss [Explanation I inserted in Rule 6 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000]**

[No. 20/2014-- Central Excise (N.T.) dated 11-07-2014]

On 29th August 2012, the Hon'ble Supreme Court in the case of Fiat India Ltd [2012 (283 ) E.L.T 161 ( S.C )] had asked Fiat to pay excise duty of about INR 400 crore on models of the Fiat Uno sold between 1996 and 2001. Fiat was importing completely knocked down (CKD) kits for its Uno cars and selling these below the cost price. The Hon'ble Supreme Court ruled that where products are sold at losses for an unduly long period of time for the purpose of market penetration, the transaction value cannot be accepted for the purpose of levy of excise duty. This resulted in double blow to companies in sectors such as automobiles and consumer goods, some of which were selling products at a loss to penetrate a fiercely competitive market. The Judgment meant that if a product's manufacturing cost is ₹ 100 but a company sells it at ₹ 80, excise duty will be levied at ₹100 plus profit (say ₹ 10) and the company will have to pay duty on ₹ 110 (and not ₹80). This has resulted in the Central Excise Field Officer seeking details cost structure of various companies so as to apply the aforesaid Supreme Court Ruling against them and raise Excise Demands.

The CBEC came up with the Circular No. 979/03/2014---CX dated 15-01-2014 stating that the Hon'ble Supreme Court has cited two instances where a manufacturer may sell goods at a price lower than the cost of manufacture and profit and yet the declared value can be considered as normal price. These instances are when the company wants to switch over its business or where a manufacturer has goods which could not be sold within a reasonable time. The Hon'ble Court has further held that these examples are not exhaustive. Therefore, mere sale of goods below the manufacturing cost and profit cannot be taken as the sole basis for rejecting the transaction value. Further, the Central Excise Officers were advised to verify aspects such as percentage of loss at which sale has taken place , the period for which such loss making price has prevailed , reasons for sale at such loss making price etc. Further on the issue of period for application of the aforesaid judgment, it was stated that:

- (a) Period prior to the date of the judgment i.e. till 29-8--2012 – No extended period of limitation would apply - Only the normal period of limitation will apply and
- (b) Period after the date of the judgment i.e., from 29-08-2012 onwards --if there is a sale in the circumstances similar to the case of M/s FIAT and yet transaction value of goods is declared as the correct assessable value, then such declaration would amount to wilful mis-statement of the assessable value.

In this budget, Explanation I has been inserted in Rule 6 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, which states that where price is not the sole consideration for sale of such excisable goods and they are sold by the assessee at a price less than manufacturing cost and profit, and no additional consideration is flowing directly or indirectly from the buyer to such assessee, the value of such goods shall be deemed to be the transaction value.

With the insertion of Explanation I in Rule 6 of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, the aforesaid issue has now been decided in the favour of assessee, though prospectively. The fate of assessee on whom Show Cause Notice has already been issue for the earlier period is still status quo and remains to be seen.

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## 5.0 Amendments to the CENVAT Credit Rules, 2004

[Effective from 11th July 2014, unless otherwise stated]

### 5.1 **CENVAT Credit on Inputs & Input Services to be taken within six months of the date of issue of Invoice or any other documents specified in Rule 9(1) [Proviso inserted in Rule 4(1) & Rule 4(7) of CENVAT Credit Rules, 2004]**

[No. 21/2014-Central Excise (N.T.) dated 11-07-2014]

The Hon'ble Mumbai Tribunal recently in the case of Shayona Pulp Conversion Mills Pvt. Ltd. has held that CENVAT Credit must be taken within one year from receipt of inputs. It was observed that though the CENVAT Credit Rules, 2004 [in short CCR'04] do not lay down any time limit for availment of CENVAT Credit on Inputs, reasonable time--- limit must be read into the law which should be normal limitation period of 1 year as applicable in Central Excise matters such as demand of duty as well as refund claims.

The aforesaid judgement was in contradiction with the settled position of law that the only restriction provided in CCR'04 for availing CENVAT Credit on Inputs is receipt of inputs in the factory and no definite time limits exists for availing CENVAT Credit of Inputs. The same principle was made applicable for Input Services also.

Through this budget, now a **time line of six months of the date of issue of Invoice exists for availing CENVAT Credit on Inputs as well as Input Services. Hence, now onwards the manufacturers or the Service Providers needs to have a more active and vigilant internal control system in place for availment of CENVAT Credit to avoid unnecessary leakage of CENVAT benefit.**

### 5.2 **Definition of Place of Removal inserted in CENVAT Credit Rules, 2004 [Rule 2(qa) of CENVAT Credit Rules, 2004]**

[No. 21/2014-Central Excise (N.T.) dated 11-07-2014]

The Hon'ble Tribunal Delhi in case of **Ultratech Cement Limited vs. CCE [2013 (30) S.T.R. 220]** held that the meaning of 'Place of removal' as defined in section 4(3)(c) of Central Excise Act, 1944 shall not be adopted for the purpose CENVAT Credit Rules,

2004 and on the basis of the afore---said findings, it was concluded that the assessee would not be entitled to CENVAT Credit on FOR sales as the place of removal would be factory gate only.

To overcome this issue, this budget has inserted clause (qa) to Rule 2 of CENVAT Credit Rules, 2004 wherein the same definition of the Act has been inserted in CENVAT Credit Rules.

### 5.3 **CENVAT Credit available on amount paid as CENVAT Credit under Rule 6(3) in case payment for export is received after extended period is allowed by RBI, if the amount is received within one year of the expiry of extended period**

[No. 21/2014 - Central Excise (N.T.) dated 11-07-2014]

The present rule stated that if exporters of service. Earlier if the exporter of service has not received within six months or the extended time allowed by RBI then the said service was deemed to be exempted service, payment was required to be made under Rule 6(3) by reversal of CENVAT Credit. It has been proposed in this budget that if the payment is received within one year from the specified period or the extended period allowed by the Reserve Bank of India.

### 5.4 **Major Set-Back for Large Taxpayer Units – CENVAT Credit cannot be transferred from one unit to other unit [Rule 12A (4) of CENVAT Credit Rules amended]**

[No. 21/2014--Central Excise (N.T.) dated 11-07-2014]

Hitherto Large Taxpayer units were allowed to transfer CENVAT Credit available with one unit to another.

Henceforth, the Large Taxpayer Units shall not be allowed to transfer CENVAT Credit from one unit to another. This is a major set-back for Large Taxpayer units.

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## B. SERVICE TAX

### 1.0 Amendments made to the Negative List

[Effective from date of enactment of Finance Bill, unless otherwise stated]

#### **Widening of tax base by reviewing Negative List of Services**

#### 1.1 **Service tax on sale of space or time for advertisements on broadcast media [i.e., radio or television] [Section 66D read with Section 66B] to be extended to include other segments like online and mobile advertising**

The scope of service tax on sale of space or time for advertisement on broadcast media has been widened to include online and mobile advertising. The new definition shall primarily include advertisements on websites, out-of-home media, on film screen in theatres, bill boards, conveyances, buildings, cell phones, Automated Teller Machines, tickets, commercial publications, aerial advertising and other similar advertising formats.

It has been further clarified that print media would continue to be in the Negative List and hence excluded from the ambit of service tax. For the sake of clarity, print media has been defined in Section 65B (39a) as:

- "book" as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867, but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes; &
- "newspaper" as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867.

#### 1.2 **Services provided by radio taxis or radio cabs to be excluded from the Negative List of Services and taxable at the rates and in the manner of Rent - a- Cab Services**

The existing Section 66D(o), exempts transportation of passengers by radio taxis or radio cabs, with or without accompanied belongings, from the ambit of Service Tax. It has been proposed to bring such services within the ambit of Service Tax at par with Rent-a- Cab services, which are similar in nature. The abatement of 60% available to Rent- a- Cab services shall be extended to Radio Taxis under Notification 25/2012- ST dated 26-06-2012.

For the purpose, radio taxis have been defined as "a taxi including a radio cab, by whatever name called, which is on two way radio communication with a central control office and is enabled for tracing using Global Positioning System (GPS) or General Packet Radio Service (GPRS)" vide Notification 06/2014-St dated 11-07-2014.

### 2.0 Amendments in Finance Act

[Effective from date of enactment of Finance Bill, unless otherwise stated]

#### 2.1 **Rules to Section 67A of the Finance Act have been prescribed to provide for determination of rate of exchange**

The existing provision of Section 67A of the Finance Act provides that the rate of exchange for the calculation of taxable value of services shall be the rate of exchange notified by the Customs Act, 1962. To delink the conversion from the Customs rate of exchange, it has been proposed to prescribe Rules for determination of rate of exchange for valuation of taxable services. However, the Rules shall be applicable only in case of certain services, as prescribed.

#### 2.2 **Clause (4b) inserted in Section 73 to prescribe time limit for determining the amount of Service Tax due in terms with Show Cause Notice**

A time limit has been prescribed for completing the adjudication process and determining Service Tax dues in terms with Show Cause Notice issued under Section 73(1) of the Act. However, the proposed amendment comes in a rider stating 'where it is possible to do so', which allows

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authorities to by---pass the time limit. The following time limit has been prescribed for the adjudication process:

Sl. No.	Period of Limitation	Time Limit
1	Normal Period of Limitation i.e. up to 18 months	6 months from the date of notice
2	Extended Period of Limitation i.e. up to 5 years	12 months from the date of notice

### **2.3 No waiver of Penalty under Section 80 for offences stated in sub-section (1) of section 78**

Section 80 of the Finance Act has been amended to exclude the reference of first proviso to section 78. This amendment, in effect, removes the power to waive the penalty imposable in cases where service tax has not been levied, not paid or short levied or short paid on account of suppression of facts or wilful misstatement.

### **2.4 Section 82(1) of the Finance Act, 1994 amended empowering Joint Commissioner or Additional Commissioner or any other officer notified by the Board to authorize any Central Excise officer to search and seize**

Section 82(1) of the Finance Act, 1994 amended in line with Section 12F(1) of the Central Excise Act, 1944 empowering Joint Commissioner or Additional Commissioner or any other officer notified by the Board to authorize any Central Excise officer to search and seize.

### **2.5 Section 83 of the Finance Act amended to include a reference to newly introduced Sections 5A (2A), 15A and 15B of the Central Excise Act, 1944**

Section 83 to be amended to include a reference to sections 5A (2A), 15A and 15B of the Central Excise Act -

- (a) Section 5A(2A) prescribes that insertion of an explanation in notifications/orders within one year shall have the effect as if it had always been part of the notification;
- (b) Section 15A is being inserted to prescribe that specified third party sources shall furnish periodic information in the manner as may be prescribed; &
- (c) Section 15B is being inserted to prescribe that failure to provide information under section 15A would attract penalty.

Section 35F of the Central Excise Act is already applicable to service tax. The proposed Section 35F of the Central Excise Act prescribes a mandatory fixed pre---deposit of 7.5% of the duty demanded or penalty imposed or both, for filing appeal before the Commissioner (Appeals) or the Tribunal at the first stage and 10% of the duty demanded or penalty imposed or both, for filing the second stage appeal before the Tribunal, subject to the maximum of INR 10 Crores. However, the pending appeals/stay applications would be governed by the statutory provisions prevailing at the time of filing such stay applications/appeals. If and when the amended section 35F in the Central Excise Act comes into force, it would, mutatis mutandis, apply to service tax by virtue of Section 83 of the Finance Act, 1994.

### **2.6 Section 87 of the Finance Act amended to provide power to recover dues from the asset sold as available under Section 11 of the Central Excise Act**

Section 87 of the Finance Act amended in line with Section 11 of the Central Excise Act empowering to recover dues of a predecessor from the assets of a successor purchased from the predecessor.

### **2.7 Section 94 to be amended to obtain rule making power** (a) to impose upon assesseees, inter alia, the duty of furnishing information, keeping records and making returns and specify the manner in which they shall be verified; (b) for withdrawal of facilities or imposition of restrictions (including restrictions on utilization of CENVAT credit) on a service provider or exporter, to check evasion of duty or misuse of CENVAT credit; and (c) to issue instructions in supplemental or incidental matters.



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### 3.0 Amendment made in existing Exemption Notification i.e. 25/2012- ST dated 20- 06--2012

[Vide Notification no.06/2014---ST dated 11-07-2014, effective from 11-07-2014]

#### Exemptions Added:

- ❖ Exemption has been granted to services provided by Common Bio-medical Waste Treatment Facility operators to clinical establishments in relation to treatment or disposal of bio--- medical waste or incidental processes;
- ❖ Exemption granted to rail or vessel transportation and services of transportation by Goods Transport Agency in relation to specified goods has been extended to chemical fertilizers, organic manure, oil cakes and ginned or baled cotton;
- ❖ Exemption from service tax has been granted to life micro--- insurance products whose sum assured does not exceed fifty thousand rupees and which has been approved by the Insurance Regulatory and Development Authority;
- ❖ Exemption has been provided to loading, unloading, packing, storage, or warehousing of rice and ginned or baled cotton;
- ❖ Exemption has been granted to import of services by the RBI in relation to management of foreign exchange reserves;
- ❖ Exemption has been granted to services provided by Indian tour operators to foreign tourists in relation to tours conducted wholly outside India;

#### Exemptions Withdrawn:

- ❖ Exemption to technical testing services by clinical research organisation, if carried on human participants has been withdrawn;
- ❖ Exemption granted to transportation of passengers in contract carriages has been modified to exclude air--- conditioned vehicles and radio taxis. The taxability of the same would be in line with the taxability of Rent-a- cab services;

#### Exemptions Amended:

- ❖ The existing Entry 9 to the Notification 25/2012--- ST dated 20--- 06--- 2012 provides for exemption to 'auxiliary educational services' provided to or by an educational institution. However, multiple issues have arisen regarding the scope of 'auxiliary educational services'. With a view to dispel such doubts, the entry has been substituted to include services provided by an educational institution to its staff, faculty and students, and services provided to educational institutions in relation to
  - a. transportation of students, faculty and staff;
  - b. catering services, including government sponsored mid--- day meals;
  - c. security, cleaning or house--- keeping services provided in such institution; &
  - d. services in relation to admission or conduct of examination by such institution.
- ❖ Exemption to services provided by hotels, inn, guest house, club or campsites have been extended to include all places, whether commercial or not, having a declared tariff of more than rupees one thousand per day. Hence, services provided by dharamsalas and ashrams shall also be covered under the said entry; and
- ❖ Exemption to services provided to government or local authority has been specified to include only water supply, public health, sanitation conservancy, solid waste management or slum improvement and up--- gradation. All other services provided to such institutions, not directly connected with the specified services shall be charged to tax;

### 4.0 Procedural Simplifications to Special Economic Zones

[Vide Notification no.07/2014-ST dated 11-07-2014 effective from 11-07-2014]

Certain changes have been made to Notification 12/2013 dated 01- 07--2013 pertaining to service tax exemption granted to units located in SEZs. The changes have been enlisted here-in-below:

- ❖ The Central Excise Officer shall issue authorization in Form A-2, within fifteen working days from the date of receipt of Form A-1. Such authorization will have validity from the date on which Form A-1 is verified by the Specified Officer of SEZ. However, if Form A-1 is furnished after a period of 15 days from the date of its verification by the Specified Officer, the authorization shall have validity from the date of furnishing of Form A-1 to the Central Excise Officer;

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- ❖ SEZ Units shall be entitled to avail upfront exemption on the basis of Form A-1. However, in such a case, the SEZ Unit/Developer would be required to furnish a copy of authorization issued by the Central Excise Officer within 3 months from the date of receipt of specified services. If a copy of authorization is not provided within the said period of three months, the service provider shall pay service tax on the service so provided availing the exemption;
- ❖ For services covered under complete reverse charge, it is being mentioned specifically in Form that there would be no requirement of furnishing service tax registration number of service provider;
- ❖ It is being provided that a service shall be treated as exclusively used for SEZ operations if the recipient of service is SEZ unit or developer, invoice is in the name of such unit/developer and the service is used exclusively for furtherance of authorized operations in SEZ; and
- ❖ It has been clarified that the jurisdictional Deputy Commissioner/Assistant Commissioner of Central Excise for all purposes under the said notification would be the authority with whom SEZ Units or the Developers are registered for taking upfront exemption or for the purposes of Chapter V of the Finance Act, 1994.

### 5.0 CENVAT Credit of input services of renting of motor-cabs to be available to Rent-a-Cab service operators

[Vide Notification no.08/2014-ST dated 11-07-2014 effective from 11-07-2014]

The existing Entry 9 to Notification 26/2012---ST dated 20---06---2012 provides that the benefit of abatement to Rent--a--cab service operators is available only in case they have not taken CENVAT credit of the input services used in provision of such services. However, the aforesaid notification has now been amended to allow CENVAT Credit of only 'renting of cab' services used as input services, subject to the following conditions:

- ❖ Full CENVAT credit has been taken of input services where the service provider is paying service tax on 40% of the value of services provided; or
- ❖ Upto 40% of the CENVAT Credit has been claimed where the service provider is paying tax on full amount of the value of services provided.

It may be noted that the benefit of abatement shall be available even if no CENVAT Credit of input services is claimed.

### 6.0 Service Tax Payments to be made electronically through internet banking, irrespective of the amount

[Vide Notification no.9/2014---ST dated 11-07-2014 w. e. f. 1st October 2014]

The assessee would be required to pay Service Tax electronically through Internet Banking, irrespective of the amount. The earlier proviso to Sub Rule (2) to Rule 6 providing a threshold limit of total Service Tax (including utilization through CENVAT Credit) of INR 1 Lakh, below which an assessee was not mandatorily required to pay electronically, has been dispensed away with in this Budget. However, power has been vested with the Assistant Commissioner or the Deputy Commissioner to allow an assessee to pay Service Tax by any mode other than Internet Banking, for reasons to be recorded in writing by the Authorities.

### 7.0 Amendment in Reverse Charge Mechanism

[Vide Notification no. 9 &.10/2014-ST dated 11- 07- 2014 w. e. f. 1st October 2014]

- ❖ Services provided by Recovery Agents to Banks, Financial Institutions and NBFC – 100% Service Tax would be payable by Service Recipient ;
- ❖ Service provided or agreed to be provided by a director of a company or a body corporate to the said company or the body corporate – 100% Service Tax would be payable by Service Recipient - **The present provision only covered directors of the company within its ambit but with the amendment, services provided by director of body corporates such as statutory corporates, RBI etc shall also be covered; &**

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- ❖ In renting of motor vehicle, where the service provider does not take abatement the portion of service tax payable by the service provider and service receiver will be modified as 50% each instead of 60% (Service Provider) and 40% (Service Recipient).

### 8.0 Amendment in Service Tax Valuation of Works Contract

[Vide Notification no.11/2014- ST dated 11-07-2014 w. e. f. 1st October 2014]

Rule 2A of the Service Tax (Determination of Value) Rules, 2006 has been proposed to be amended to merge Category B and Category C of Works Contract into one single category, with percentage of service portion as 70%. This amendment has been made to avoid disputes of classification between these two categories.

Sl. No.	Delay Period	Existing Service Portion	Proposed Service Portion
1	Maintenance or Repair or Reconditioning or Restoration or Servicing of any goods	70%	70%
2	Maintenance or Repair or Completion and Finishing Services such as glazing or plastering or floor and wall tiling or installation of electrical fittings of immovable property	60%	

### 9.0 Change in Interest Rate on delay payment of Service Tax

[Vide Notification no.12/2014 -ST dated 11-07-2014]

A Variable Interest Rate Structure has been proposed to encourage prompt payment of Service Tax, as stated here -in- below:

Sl. No.	Delay Period	Interest Rate
1	Upto 6 months	18%
2	6 month to 1 year	18% for first six months & and 24% for the balance period of delay
3	More than 1 year	18% for first six months & and 24% for next six months and 30% for balance period

### 10.0 Time limit for incidence of payment in case of Reverse Charge Mechanism has been reduced

[Vide Notification no.13/2014- ST dated 11-07-2014 effective from 11-07-2014]

The existing Rule 7 of the Point of Taxation Rules, 2011 provides that the point of taxation in case of Reverse Charge Mechanism is the date of payment to the Service

Provider in case the payment is made within 6 months from the date of invoice. In case payment is made beyond a period of 6 months the point of taxation shall be the date of invoice. Vide Notification 13/2014- St dated 11-07-2011, the period for determining the point of taxation has been reduced to 3 months. If payment is made beyond a period of 3 months, the point of taxation shall be the date immediately following the said period of three months. However, the amendment shall be applicable to invoices issued after 01-10-2014, for which a transitional Rule 10 has been inserted.

### 11.0 Amendments in Place of Provision of Services Rules

[Vide Notification no.14/2014- ST dated 11-07-2014 applicable from 1st October, 2014]

- ❖ Provision for prescribing conditions for determination of place of provision of repair service carried out on temporarily imported goods is being omitted. The second proviso to rule 4(a) is being amended to prescribe that it would suffice for the purpose of exclusion of repair

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- service from applicability of rule 4(a) that the goods imported for repair are exported after repair without being put to any use other than that which is required for such repair;
- ❖ The definition of intermediary is being amended to include the intermediary of goods in its scope. Accordingly, an intermediary of goods, such as a commission agent or consignment agent shall be covered under rule 9(c) of the Place of Supply of Services Rules; and
  - ❖ Service consisting of hiring of Vessels (excluding yachts) and Aircraft is being excluded from Rule 9(d). Hence, they would be covered by the general rule, that is, the place of location of the service receiver. However, hiring of yachts would continue to be covered by Rule 9 (d).

### 12.0 Advance Ruling available to Resident Private Limited Companies

[Vide Notification no.15/2014- ST dated 11- 07-2014]

Section 96A of the Act defines an "applicant" to inter alia cover "any such class or category of persons, as the Central Government may, by notification in the Official Gazette specify". Vide Notification No. 15/2014- S.T. dated 11-07-2014; a "Resident Private Limited Company" has been notified as an "applicant" eligible to apply for Advance Ruling under the Act.

### 13.0 Clarification on Manner of distribution of common input service credit under Rule 7(d) of the Cenvat Credit Rules, 2004

[Vide Circular No. 178/4/2014-ST dated 11- 07- 2014]

Rule 7 of the CENVAT Credit Rules, 2004, provides for the manner of distribution of common input service credit by the Input Service Distributor. An amendment was carried out vide Notification no. 05/2014- CE (N.T.) dated 24- 02- 2014 amending inter- alia Rule 7(d) providing for distribution of common input service credit among all units in their turnover ratio of the relevant period. Doubts have arising that due to the use of the term 'such unit' in Rule 7(d), the distribution of the credit would be restricted to only those units where the services are used. It has been interpreted by the trade that in view of the amended rule 7(d) of the CCR, the credit available for distribution would get reduced by the proportion of the turnover of those units where the services are not used.

**It has been clarified that the amended Rule 7(d) seeks to allow distribution of input service credit to all units in the ratio of their turnover of the previous year, irrespective of whether such common input services were used in all the units or in some of the units.**

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## C. CUSTOMS DUTY

### 1. Amendments in Customs Tariff Act

#### 1.1 General

- Peak rate of BCD retained at 10%

#### 1.2 Change in Basic custom Duty

Chapter No.	Description	Pre Budget (%)	Post Budget (%)
15,29 & 38	Fatty acids, crude palm stearin, RBD and other palm stearin and specified industrial grade crude oils for manufacture of soaps subject to actual user condition	7.5	-
	Crude glycerine – if used for general purpose	12.5	7.5
	Crude glycerine – if used for manufacture of soap	12.5	-
22	Denatured ethyl alcohol	7.5	5
23	De-oiled soya extract, groundnut oil cake/oil cake meal, sunflower oil cake/oil cake meal, canola oil cake/oil cake meal, mustard oil cake/oil cake meal, rice bran/rice bran oil cake and palm kernel cake, up to 31.12.2014		-
24,25	Steel grade dolomite and steel grade limestone	5	2.5
27	Coking coal	-	2.5
	Bituminous coal	2	2.5
	Anthracite coal and other coal	5	2.5
	Metallurgical coke	-	2.5
	Crude naphthalene	10	5
	Reformate and other goods	10	2.5
	Coal tar pitch	10	5
	Re-gasified LNG for supply to Pakistan		-
	Liquefied Propane and Butane mixture, Liquefied Propane, Liquefied Butane and Liquefied Petroleum Gases (LPG) imported by the Indian Oil Corporation Limited, Hindustan Petroleum Corporation Limited or Bharat Petroleum Corporation Limited, for supply to Non---Domestic Exempted Category (NDEC) customers w.e.f. 08.02.2013 and upto 10.07.2014.		
Propane	5	2.5	
28-49	Ethane and other goods	5	2.5
	Ortho-xylene	5	2.5
	Methyl alcohol	7.5	5
	Raw materials for manufacture of spandex yarn viz. Diphenylmethane 4,4 di-isocyanate (MDI) and Polytetramethylene ether glycol (PT MEG)	5	-
	Raw materials used in the manufacture of solar back		-

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	sheet and EVA sheet for use in manufacture of solar PV cells or modules		
	Pre---forms of precious and semi-precious stones		-
	Half---cut or broken diamonds	-	2.5
71	Cut & polished diamonds including lab-grown diamonds and colored gemstones	2	2.5
72	Stainless steel flat products (CTH 7219 and 7220)	5	7.5
73	Forged steel rings used in the manufacture of bearings of wind operated electricity generators	10	5
84	Machinery, equipments, etc. required for initial setting up of compressed biogas plant (Bio-CNG)		5
	Machinery, equipment, etc. required for initial setting up of solar energy production projects		5
85	Electrolysers and their parts/spares required by caustic soda	5	2.5
	LCD and LED TV panels of below 19 inches	10	-
	Colour picture tubes for manufacture of cathode ray TVs	10	-
	Specified parts of LCD and LED panels for TVs		-
	E-Book readers	7.5	-
	Battery waste and battery scrap	10	5
	Specified telecommunication products not covered under the ITA (Information Technology Agreement)	-	10
89	Ships imported for breaking up	5	2.5

### 1.3 Change in Export Duty Rate

Chapter No.	Description	Pre Budget (%)	Post Budget (%)
26	Bauxite	10	20

### 1.4 Change in CVD

Chapter No.	Description	Pre Budget (%)
27	Anthracite coal, Coking coal and other Coal	2
28-49	Raw materials required for manufacture of security threads and security fibre subject to actual user condition	0
84	Machinery, equipment, etc. required for initial setting up of solar energy production projects	0

### 1.5 Change in special Additional Duty

Chapter No.	Description	Pre Budget (%)
73	Special Additional Duty is being provided on parts and raw materials required for use in the manufacture of wind operated electricity generators	0

## Amendments as per Finance (No.2) Act, 2014 - applicable for June 2015 and December 2015 terms of Examinations

85	All inputs/components used in the manufacture of Personal Computers (laptops/desktops) and tablet computers	0
	Specified inputs (PVC sheet & Ribbon) used in the manufacture of smart cards	0

### 2.0 Amendments to the Customs Act, 1962

[Effective from date of enactment of Finance Bill, unless otherwise stated]

#### 2.1 **Determination of rate of duty and tariff valuation for imports through a vehicle in cases where the Bill of Entry is filed prior to the filing of Import Report [Section 15(1)]**

For the purpose of date of determination of Rate of duty & tariff valuation of imported goods sub section (1) of Section 15 provides the date on which the Bill of Entry is presented in case of goods when entered for home consumption u/s 46 as well as in case of warehouse goods cleared for home consumption u/s 68 shall be the date of determination. However in cases other than mentioned above, date of payment shall be regarded as the date of determination. It would be pertinent to note in this regards that prior to the amendment made in Union Budget 2014--15, if the Bill of Entry was presented before the Date of entry inward of the vessel or arrival of the aircraft by which the goods are imported, the Bill of Entry shall be deemed to be presented on the date of such Entry Inwards or arrival.

Section 15(1) has been proposed to be amended to include the aforesaid provision for imports through vehicles also.

#### 2.2 **Section 25 has been amended to include non-recovery of customs duties on mineral oils**

Section 25 has been amended to provide for non-recovery of customs duties on mineral oils including petroleum & natural gas, extracted or produced in the continental shelf of India or the exclusive economic zone of India for the period prior to 7th February, 2002. In this respect, it would be relevant to note that anything contained in any judgment, decree or order of any court, tribunal, or other authority, no suits shall be maintained or continued in any court, tribunal or other authority.

#### 2.3 **Application for settlement of cases [Section 127B]**

The Finance Bill has proposed that an application before Settlement Commission can only be filed after payment of interest on delayed payment of duty under Section 28AA. Further, it has been proposed that Settlement Commission may also allow application in cases where a Bill of Export, Baggage Declaration, Label or Declaration accompanying the goods effected through Post or Courier has not been filed

#### 2.4 **Monetary Limit for refusal of admittance of appeal by Appellate Tribunal increased from 'fifty thousand' to 'two lakh rupees' [Section 129]**

The monetary limit of duty, fines or penalty prescribed for discretionary power of Tribunal to refuse admittance of cases has been increased from 'Fifty Thousand Rupees' to 'Two Lakh Rupees'.

Considering that the amount of pre---deposit has been stipulated in the statute itself, the requirement to dispose the appeal within 180 days of stay has been omitted.

#### 2.5 **Extention in period of review by Committee of Chief Commissioners [Section 129D]**

Section 129D is being amended to insert a proviso in sub---section (3) so as to vest the Board with powers to condone delay for a period of upto 30 days, for review by the Committee of Chief Commissioners of the orders in original passed by the Commissioner of Customs

#### 2.6 **Major Revamp in Appellate Proceedings – Amount of pre-deposit stipulated in the Act itself [Section 129E]**

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Section 129E has been proposed to be amended to prescribe a mandatory pre-deposit for entertaining appeals by the Commissioner (Appeals) or Tribunal –

SI No.	Appeal Pending Before	Mandatory Pre-deposit
1	Commissioner (Appeals)	7.5% of duty amount, penalty or both
2	Appellate Tribunal against order of Commissioner of Central Excise	7.5% of duty amount, penalty or both
3	Appellate Tribunal against order of Commissioner of Central Excise (Appeals)	10% of duty amount, penalty or both

The aforesaid pre-deposit would be subject to a ceiling limit of INR 10 Crs.

With this proposition, the concept of stay hearing appears to be dispensed away with. This is a welcome change for both assesseees as well as the Appellate Forums; however, it may cause undue financial hardship to the assessee in cases where the proceedings have been initiated out of thin air without any merits.

### 2.7 Scope of Advance Ruling Expanded

In terms with power conferred by sub-clause (iii) of clause (c) of Section 28E of the Customs Act, 1962, the Central Government has included the 'Resident Private Limited Company' as class of person's eligible to apply for Advance Ruling. Earlier, the Central Government vide Notification no. 67/2011 – CUS(N.T.) dated 22-09-2011 has notified "the resident public limited company" as a person eligible for seeking Advance Ruling. Hence, with this proposed amendment, both resident public limited companies & private limited companies would be eligible for seeking Advance Ruling. This proposed aimed to minimise disputes arising in future.

### 2.8 Amendment in Baggage Rules

- To raise the free baggage allowance from INR 35,000 to INR 45,000;
- To reduce the duty free allowance of cigarettes from 200 gms to 100 gms, of cigars from 50 gms to 25 gms and of tobacco from 250 gms to 125 gms.; &
- To raise the value of articles carried on by the passenger from INR 15000 to INR 17,500.