Supplementary Material

Intermediate
Group - II
[Syllabus - 2012]

The Institute of Cost Accountants of India
CMA Bhawan, 12, Sudder Street, Kolkata - 700 016

Paper - 10

COST & MANAGEMENT ACCOUNTANCY

Cost Accounting Methods and Systems

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1.1.12 Design of Forms and Records:

As a part of installation of cost system, the cost accountant has to design various forms & records to accumulate the cost data and present it in proper reports. The forms and records should be designed after considering the following:

(a) These forms and records should be designed in such a way that all the cost data should be collected;

(b) Forms should be easy to understand & user friendly to other functions;

(c) Cost reports should meet the objectives of the management;

(d) Cost reports and records should meet the statutory requirements. In view of the recent statutory requirements as required under Companies (Cost Records and Audit) Rules, 2014, the forms and records should meet these requirements also.

(e) The forms, records and reports should be flexible enough to update the necessary changes in the future.

Study Note - 5

COST ACCOUNTING RECORDS AND COST AUDIT

5.1 Introduction to Cost Audit

5.2 Origin of Cost Audit

5.3 Relevance of Cost Audit

5.4 Objectives of Cost Audit

5.5 Provision for Cost Audit

5.6 Companies (Cost Records & Audit) Rules, 2014

5.1 INTRODUCTION TO COST AUDIT

Cost Audit involves an examination of cost books, cost accounts, cost statements and subsidiary and prime documents with a view to satisfying the auditor that these represent true and fair view of the cost of production. This includes the examination of the appropriateness of Cost Accounting system.

Cost Audit is an innovation introduced for the first time in the world and India with a view to regulate industries on healthy and sound lines. It is for cost-effective products and services to customers, proper revenue to government's treasury and proper returns to other stakeholders of the enterprise. India is the first country in the world introducing the legal provisions for compulsory maintenance of cost records, so that industries become cost conscious and industrial efficiency is increased for the benefit of the society as a whole. It fully conforms to the requirements of planning for 'sustainable development'. If an enterprise is to work effectively all its assets and liabilities must be used in the most rational manner. This means that the productive areas within the control of the enterprise, its buildings, equipment, machineries etc. must be used to the maximum and this in turn presupposes the economical expenditure of circulating assets or working capital. Efficient use of productive resources for the maximum benefit to the society is an immutable law of economic development and cost accounting system, and its audit is the most significant means of ensuring the same.

According to Chartered Institute of Management Accountants, London (CIMA), cost audit is "the verification of the correctness of cost accounts and of the adherence to the cost accounting plan". In other words, cost audit is the verification of the cost of production of any product, service or activity on the basis of accounts maintained by an enterprise in accordance with the accepted principles of cost accounting. This definition of Cost Audit is relevant to the voluntary Cost Audit without any statutory backing.

The Institute of Cost Accountants of India on the other hand, defines cost audit as "a system of audit introduced by the Government of India for the review, examination and appraisal of the cost accounting records and attendant information, required to be maintained by specified industries." Thus the concept and scope of cost audit as defined in India is more specific and lays emphasis on the evaluation of the efficiency of operations and the propriety of management actions as introduced by the Government of India for specified industries. In this sense, cost audit in India appears to be synonymous with efficiency audit mainly as a guide for management policy and decision making besides being a barometer of actual performance.

Thus Cost Audit in India refers to the statutory Cost Audit of the selected companies covered under the relevant provisions of the Companies Act, 2013. These requirements are mandatory and non-compliance may invite penal provisions also.

5.2 ORIGIN OF COST AUDIT

In India, methods and techniques of cost accounting and audit of cost accounts can be traced back to pre-independence era when a large number of firms were given contracts by the Government of India on cost plus basis. The Government then started verifying and investigating into the cost structure of such firms. This trend continued on a large scale during World War II that led to the recognition of cost as a distinct concept not only in India but also in the industrial economies of the world. A phenomenon of cost consciousness started taking shape in the country and the Institute of Cost and Works Accountants of India was set up in 1944 with the objectives of promoting, regulating, and developing the profession of cost accountancy in the country.

The Institute of Cost and Works Accountants of India was later incorporated as a statutory body by an Act of Parliament in 1959. In moving the Cost and Works Accountants Bill for reference to the Joint Committee, the Deputy Minister of Commerce and Industry explained the nature and purpose of cost accounting as follows (*Lok Sabha Debates, Vol. XXIV, dated 20th December, 1958, pp. 6608-09*):

"Cost accounting is a function entirely different from general or financial accounting. Cost accountancy covers a wide range of subjects, with special emphasis on cost accounting, factory organization and management, engineering techniques, and knowledge of the working of the factories. The cost accountant performs services involving pricing of goods, preparation, verification, certification of cost accounts and related statements, or recording presentation or certification of cost facts or data. In a manufacturing concern, he works out the economical cost of production and evaluates its progress at each stage of production. In mass production enterprises, he points out wastage of manpower due to overstaffing or inefficient organization and indicates the output, the capacity of the machines and labour, the stock position, the movement of stores and weakness in the production process. The systematic determination of cost in every single and distinct process of manufacturing provides a continuous check on the margin of waste in the processing of raw and semi-finished materials, on the utilisation of machinery installed, on manpower expended and the percentage of rejection of finished products. This pinpoints also the particular process in which defects and deficiencies exist, thereby enabling immediate remedial measure being taken. Costing, in short, aims at making the organization efficient and economical, by providing the minimum of labour and material and getting the full capacity of the machine output. The cost accountant, therefore, is concerned solely and mainly with the internal economy of the industry, and renders services essential to the day-to-day management of the undertaking."

5.3 RELEVANCE OF COST AUDIT

In the initial years, Cost Audit was taken merely as a tool for 'price control mechanism' for consumer and infrastructure industries in India. The main objective of Cost Audit when statutorily introduced under the provisions of Companies Act, 2013 was to meet the Government requirements for regulating the price mechanism in core industries. The objective was to provide an authentic data to the Government to regulate the demand and supply in the country through a price control mechanism.

The liberalization of the economy and consequential globalization has further enhanced the need for authentic data.

Expert Committee (formed by the Government of India to study the Cost Audit) scenario in the country, highlighted the following benefits of cost information:

- Cost Information enables the organization to structure the cost, understand it and use it for communicating with the stakeholders.
- Costing is an important tool in assessing organizational performance in terms of shareholder and stakeholder value. It informs how profits and value are created, and how efficiently and effectively operational processes transform input into output. It contributes to the data input on economy level parameters like resources efficiency, waste management, resources allocation policies etc.

- Costing includes product, process, and resource-related information covering the functions of the organization and its value chain. Costing information can be used to appraise actual performance in the context of implemented strategies.
- Good practice in costing should support a range of both regular and non-routine decisions when designing products and services to
  - meet customer expectations and profitability targets;
  - assist in continuous improvements in resources utilisation; and
  - guide product mix and investment decisions.
- Working from a common data source (or a single set of sources) also helps to ensure that output reports for different audiences are reconcilable with each other.
- Integrating databases and information systems can help to provide useful costing information more efficiently as well as reducing source data manipulation.

As per International Federation of Accountants (IFAC), the general principles of costing and the design of costing systems in this Guidance are generally applicable to all types of organization. For example, cost information is an equally important driver of performance information and reporting in public and not-for-profit organizations. However, some jurisdictions apply legislative expectations on performance. These legislative mandates require reporting entities to develop and report cost information on a consistent and regular basis. Rules in some jurisdictions prescribe the calculation of unit costs to (a) allow comparisons between public authorities, and (b) establish the performance of specific activities.

Cost audits help to ascertain whether an organization's cost accounting records are so maintained as to give a true and fair view of the cost of production, processing, manufacturing, and mining of a product. Therefore, cost audits can be used to the benefit of management, consumers and shareholders by (a) helping to identify weaknesses in cost accounting systems, and (b) to help drive down costs by detecting wastage and inefficiencies. Cost audits are also of assistance to governments in helping to formulate tariff and taxation policies.

5.4 OBJECTIVES OF COST AUDIT

Cost Audit has both general and social objectives. The *general objectives* can be described to include the following :

- Verification of cost accounts with a view to ascertaining that these have been properly maintained and compiled according to the cost accounting system followed by the enterprise.
- Ensuring that the prescribed procedures of cost accounting records rules are duly adhered to detection of errors and fraud.
- Verification of the cost of each "cost unit" and "cost center" to ensure that these have been properly ascertained.
- Determination of inventory valuation.
- Facilitating the fixation of prices of goods and services.
- Periodical reconciliation between cost accounts and financial accounts.
- Ensuring optimum utilization of human, physical and financial resources of the enterprise.
- Detection and correction of abnormal loss of material and time.
- Inculcation of cost consciousness.
- Advising management, on the basis of inter-firm comparison of cost records, as regards the areas where performance calls for improvement.
- Promoting corporate governance through various operational disclosures to the directors.

Among the *social objectives of cost audit,* the following deserve special mention :

- Facilitation in fixation of reasonable prices of goods and services produced by the enterprise. Improvement in productivity of human, physical and financial resources of the enterprise.
- Channelising of the enterprise resources to most optimum, productive and profitable areas.
- Availability of audited cost data as regards contracts containing escalation clauses.
- Facilitation in settlement of bills in the case of cost-plus contracts entered into by the Government.
- Pinpointing areas of inefficiency and mismanagement, if any for the benefit of shareholders, consumers, etc., such that necessary corrective action could be taken in time.

5.5 PROVISION FOR COST AUDIT

As per section 2(13) of Companies Act, 2013, "books of account" includes records maintained in respect of—

(i) all sums of money received and expended by a company and matters in relation to which the receipts and expenditure take place;

(ii) all sales and purchases of goods and services by the company;

(iii) the assets and liabilities of the company; and

(iv) the items of cost as may be prescribed under section 148 in the case of a company which belongs to any class of companies specified under that section;

Books of account, etc., to be kept by company [Section 128]

(1) Every company shall prepare and keep at its registered office books of account and other relevant books and papers and financial statement for every financial year which give a true and fair view of the state of the affairs of the company, including that of its branch office or offices, if any, and explain the transactions effected both at the registered office and its branches and such books shall be kept on accrual basis and according to the double entry system of accounting:

Provided that all or any of the books of account aforesaid and other relevant papers may be kept at such other place in India as the Board of Directors may decide and where such a decision is taken, the company shall, within seven days thereof, file with the Registrar a notice in writing giving the full address of that other place:

Provided further that the company may keep such books of account or other relevant papers in electronic mode in such manner as may be prescribed.

(2) Where a company has a branch office in India or outside India, it shall be deemed to have complied with the provisions of sub-section (1), if proper books of account relating to the transactions effected at the branch office are kept at that office and proper summarised returns periodically are sent by the branch office to the company at its registered office or the other place referred to in sub-section (1).

(3) The books of account and other books and papers maintained by the company within India shall be open for inspection at the registered office of the company or at such other place in India by any director during business hours, and in the case of financial information, if any, maintained outside the country, copies of such financial information shall be maintained and produced for inspection by any director subject to such conditions as may be prescribed:

Provided that the inspection in respect of any subsidiary of the company shall be done only by the person authorised in this behalf by a resolution of the Board of Directors.

(4) Where an inspection is made under sub-section (3), the officers and other employees of the company shall give to the person making such inspection all assistance in connection with the inspection which the company may reasonably be expected to give.

(5) The books of account of every company relating to a period of not less than eight financial years immediately preceding a financial year, or where the company had been in existence for a period less than eight years, in respect of all the preceding years together with the vouchers relevant to any entry in such books of account shall be kept in good order:

Provided that where an investigation has been ordered in respect of the company under Chapter XIV, the Central Government may direct that the books of account may be kept for such longer period as it may deem fit.

(6) If the managing director, the whole-time director in charge of finance, the Chief Financial Officer or any other person of a company charged by the Board with the duty of complying with the provisions of this section, contravenes such provisions, such managing director, whole-time director in charge of finance, Chief Financial officer or such other person of the company shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees or with both.

Central Government to Specify Audit of Items of Cost in respect of Certain Companies [Section 148]

(1) The Central Government may, by order, in respect of such class of companies engaged in the production of such goods or providing such services as may be prescribed, direct that particulars relating to the utilisation of material or labour or to other items of cost as may be prescribed shall also be included in the books of account kept by that class of companies.

Provided that the Central Government shall, before issuing such order in respect of any class of companies regulated under a special Act, consult the regulatory body constituted or established under such special Act.

(2) If the Central Government is of the opinion, that it is necessary to do so, it may, by order, direct that the audit of cost records of class of companies, which are covered under sub-section (1) and which have a net worth of such amount as may be prescribed or a turnover of such amount as may be prescribed, shall be conducted in the manner specified in the order.

(3) The audit under sub-section (2) shall be conducted by a Cost Accountant in practice who shall be appointed by the Board on such remuneration as may be determined by the members in such manner as may be prescribed.

Provided that no person appointed under section 139 as an auditor of the company shall be appointed for conducting the audit of cost records.

Provided further that the auditor conducting the cost audit shall comply with the cost auditing standards.

Explanation.— For the purposes of this sub-section, the expression "cost auditing standards" mean such standards as are issued by the Institute of Cost and Works Accountants of India, constituted under the Cost and Works Accountants Act, 1959, with the approval of the Central Government.

(4) An audit conducted under this section shall be in addition to the audit conducted under section 143.

(5) The qualifications, disqualifications, rights, duties and obligations applicable to auditors under this Chapter shall, so far as may be applicable, apply to a cost auditor appointed under this section and it shall be the duty of the company to give all assistance and facilities to the cost auditor appointed under this section for auditing the cost records of the company.

Provided that the report on the audit of cost records shall be submitted by the cost accountant in practice to the Board of Directors of the company.

(6) A company shall within thirty days from the date of receipt of a copy of the cost audit report prepared in pursuance of a direction under sub-section (2) furnish the Central Government with such report along with full information and explanation on every reservation or qualification contained therein.

(7) If, after considering the cost audit report referred to under this section and the information and explanation furnished by the company under sub-section (6), the Central Government is of the opinion that any further information or explanation is necessary, it may call for such further information and explanation and the company shall furnish the same within such time as may be specified by that Government.

(8) If any default is made in complying with the provisions of this section,—

(a) the company and every officer of the company who is in default shall be punishable in the manner as provided in sub-section (1) of section 147;

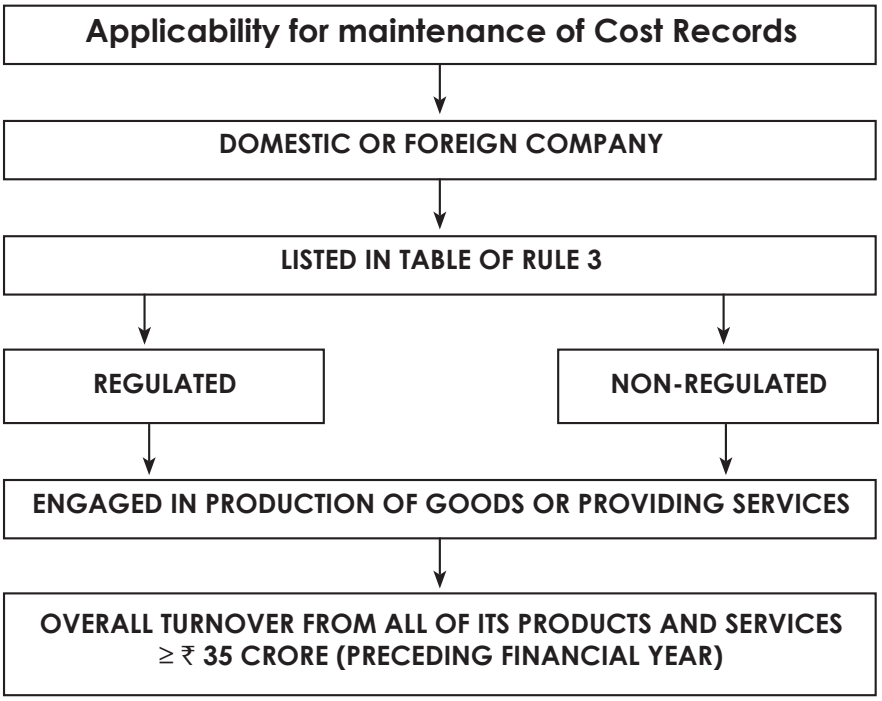
(b) the cost auditor of the company who is in default shall be punishable in the manner as provided in sub-sections (2) to (4) of section 147.

5.6 COMPANIES (COST RECORDS & AUDIT) RULES, 2014

An analysis through – diagrammatic representation

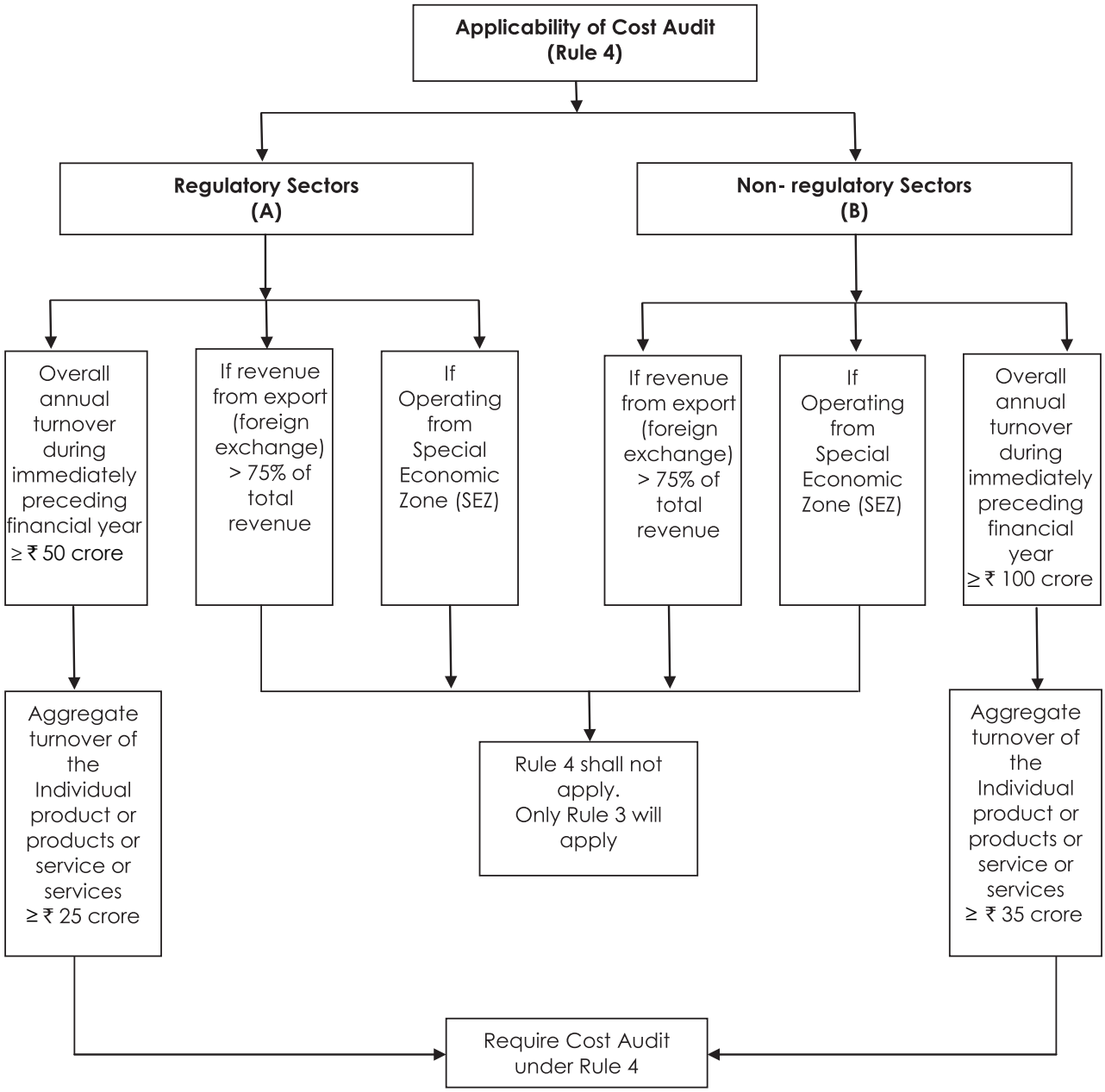
Rules/Forms	Summary
Rule 1: Short title and commencement	**(1)** These rules may be called the Companies (Cost Records and Audit) Rules, 2014. **(2)** They shall come into force on the date of publication in the Official Gazette i.e. 30.06.2014.
Rule 2: Definitions	In these rules, defined various points - **(a)** Act; **(aa)** Central Excise Tariff Act Heading; **(b)** Cost Accountant in practice; **(c)** cost auditor **(d)** cost audit report; **(e)** cost records; **(f)** form; **(g)** institute; **(h)** all other words and expressions used in these rules but not defined, and defined in the Act or in the Companies (Specification of Definition Details) Rules, 2014 shall have the same meanings as assigned to them in the Act or in the said rules.
Rule-3: Application of Cost Records	Two categories (regulated sectors and non-regulated sectors) have been retained and a general threshold of turnover of ₹ 35 crores or more has been prescribed for companies covered. Micro enterprise or a small enterprise as per MSMED Act, 2006 have been taken out of the purview.

Rule 3: Diagrammatic Representation

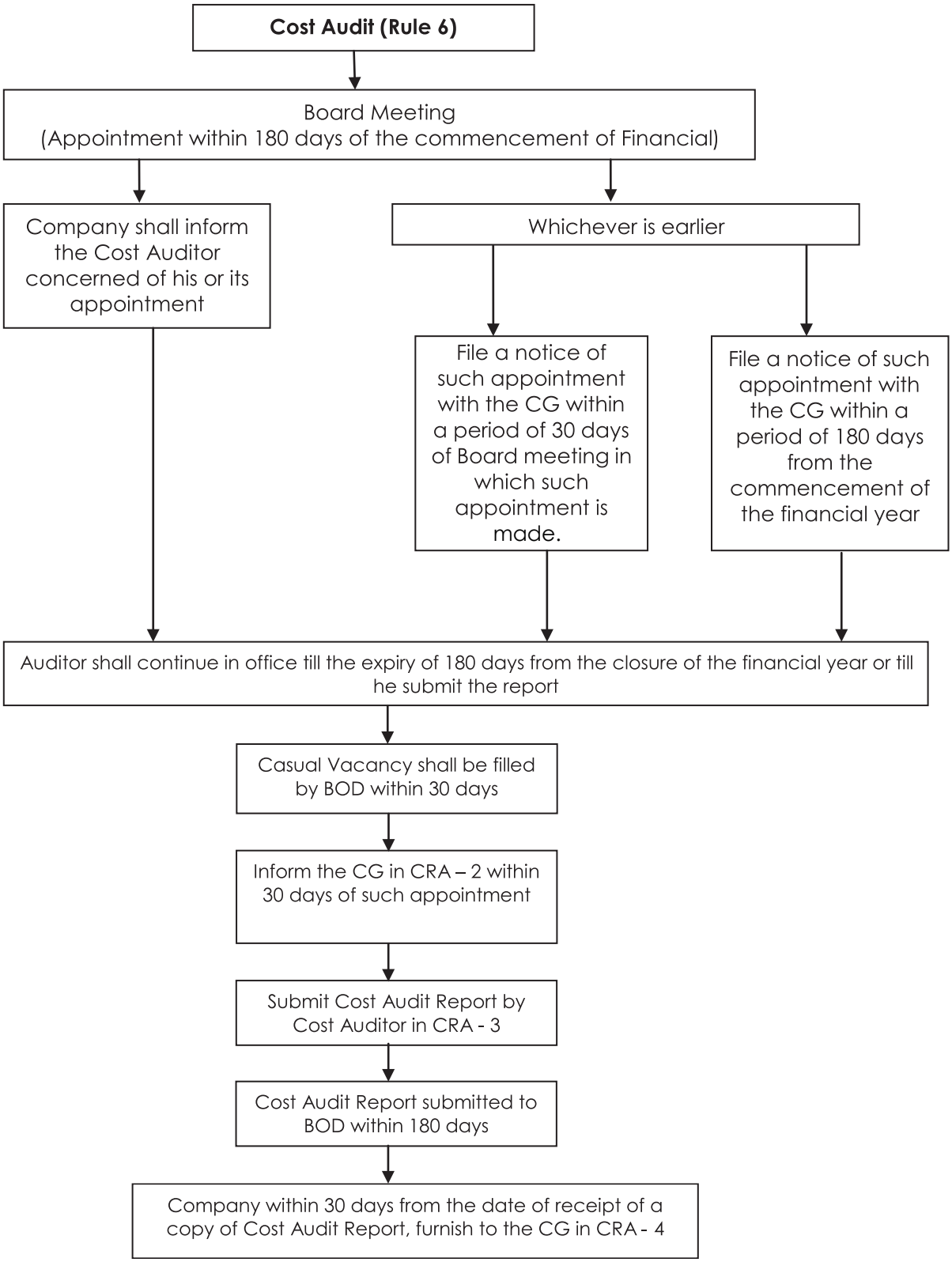


Rule-4: Applicability for Cost Audit	Even for regulated sectors like Telecommunication, Electricity, Petroleum and Gas, Drugs and Pharma, Fertilizers and Sugar, Cost audit requirement has been made subject to a turnover based threshold of ₹ 50 crores for all product and services and ₹ 25 crores for individual product or services. For Non-regulated sector the threshold is ₹ 100 crores and ₹ 35 crores respectively.

Rule 4: Diagrammatic Representation



Rule-5: Maintenance of Cost Records	The requirement to maintain cost records in Form CRA-1 have been postponed to Financial Year 2015-16 for the following companies in some non-regulated sectors, namely; Coffee and Tea, Milk Powder and Electricals and electronic machinery.
Rule-6: Cost Audit	Any casual vacancy in the office of a cost auditor, whether due to resignation, death or removal to be filled by the Board of Directors within thirty days of occurrence of such vacancy and the company shall inform the Central Government in Form CRA-2 within thirty days of such appointment of cost auditor.


Cost Audit (Rule 6)
Board Meeting
(Appointment within 180 days of the commencement of Financial)
Company shall inform the Cost Auditor concerned of his or its appointment
Whichever is earlier
File a notice of such appointment with the CG within a period of 30 days of Board meeting in which such appointment is made.
File a notice of such appointment with the CG within a period of 180 days from the commencement of the financial year
Auditor shall continue in office till the expiry of 180 days from the closure of the financial year or till he submit the report
Casual Vacancy shall be filled by BOD within 30 days
Inform the CG in CRA – 2 within 30 days of such appointment
Submit Cost Audit Report by Cost Auditor in CRA - 3
Cost Audit Report submitted to BOD within 180 days
Company within 30 days from the date of receipt of a copy of Cost Audit Report, furnish to the CG in CRA - 4

CRA-1: Forms in which cost records shall be maintained **[Pursuant to rule 5(1)]**	The form CRA-1 prescribes the form in which cost records shall be maintained. The form categorises the requirement of maintaining proper details as per 30 headings. The headings are as follows: **(1)** Material Cost, **(2)** Employee Cost, **(3)** Utilities, **(4)** Direct Expenses, **(5)** Repair and Maintenance, **(6)** Fixed Assets and Depreciation, **(7)** Overheads, **(8)** Administrative Overheads, **(9)** Transportation Cost, **(10)** Royalty and Technical Know-how, **(11)** Research and Development expenses, **(12)** Quality Control Expenses, **(13)** Pollution Control Expenses, **(14)** Service Department Expenses, **(15)** Packing Expenses, **(16)** Interest and Financing Charges, **(17)** Any other item of Cost, **(18)** Capacity Determination, **(19)** Work-in-progress and finished stock, **(20)** Captive Consumption, **(21)** By-Products and Joint Products, **(22)** Adjustment of Cost Variances, **(23)** Reconciliation of Cost and Financial Accounts, **(24)** Related Party Transactions, **(25)** Expenses or Incentives on Exports, **(26)** Production records, **(27)** Sales records, **(28)** Cost Statements, **(29)** Statistical Records, **(30)** Records of Physical Verification.
CRA-2: Form of intimation of appointment of cost auditor by the company to **Central Government** **[Pursuant to rule 6(2) & (3A)]**	**(1)** Corporate Identity number (CIN) or foreign company registration number (FCRN) of the company **(2)** General Information **(3)** Product(s)/Service(s) to which Cost Audit relates **(4)** Details of all the Cost Auditor(s) appointed **(5)** Financial year to be covered under the Cost Audit **(6)** Details of previous Cost Auditor which has not been reappointed **(7)** Attachments - Copy of the Board resolution of the company - Optional attachment - if any
CRA-3: Form of Cost Audit Report **[Pursuant to rule 6(4)]**	Clause (vii) have been added to auditor's report as under: Detailed unit-wise and product/service-wise cost statements and schedules thereto In respect of the product/services under reference of the company duly audited and certified by me/us are/are not kept in the company.

Annexure to Cost Audit Report	**Annexure has been reclassified into four parts as under:** **Part-A** General Information, General Details of Cost Auditors, Cost Accounting Policy, Product/Service Details –for the company as a whole. **Part-B For Manufacturing Sector** Quantitative Information, Abridged Cost Statement, Details of Materials Consumed, Details of Utilities Consumed, Details of Industry Specific Operating Expenses. **Part-C For Service Sector** Quantitative Information, Abridged Cost Statement, Details of Materials Consumed, Details of Utilities Consumed, Details of Industry Specific Operating Expenses. **Part-D** Product and Service Profitability Statement, Profit Reconciliation, Value Addition and Distribution of Earnings, Financial Position and Ratio Analysis, Related Party Transactions, Reconciliation of Indirect taxes.
CRA – 4: Form for filing Cost Audit Report with the **Central Government** **[Pursuant to rule 6(6)]**	**(1)** Corporate identity number (CIN) or foreign company Registration number (FCRN) of the company **(2)** General Information **(3)** Corporate identity number (CIN) or foreign company Registration number (FCRN) of the company **(4)** Details of Industries/Sectors/Product(s)/Service(s) (CETA headling level, wherever applicable as per Rules for Regulated and Non-regulated sector) for which the Cost Audit Report is being submitted **(5)** Details of Industries/Sectors/Product(s)/Service(s) (CETA headling level, wherever applicable as per Rules for Regulated and Non-regulated sector) not covered in the Cost Audit Report **(6)** Details of the cost auditor(s) appointed **(7)** Details of observation of the Cost Audit report **(8)** Attachment - XBRL document in respect of the cost audit report and Company's information and explanation on every Qualification and reservation contained therein - Optional attachment, if any.

Detailed Rule as per pronouncement by the MCA, GOI is reproduce for reference:-

The Companies (Cost Records and Audit) Rules, 2014 came into force on 30th June, 2014. These rules were amended on 31st December' 2014 giving effect to Rule 2, 3, 4, 5, 6, 7 and Form CRA 1 & CRA 3. It was further amended on 12th June'2015 to giving effect on Form CRA 2 & CRA 4.

Represented hereunder the existing provisions as applicable, after considering amendments till date, as mentioned above:

1. Short title and commencement [Rule 1]

(1) These rules may be called the Companies (Cost Records and Audit) Rules, 2014.

(2) They shall come into force on the date of publication in the Official Gazette.

2. Definitions [Rule 2]

In these rules, unless the context otherwise requires -

(a) "Act" means the Companies Act, 2013 (18 of 2013);

(aa) "Central Excise Tariff Act Heading" means the heading as referred to in the Additional Notes in the First Schedule to the Central Excise Tariff Act, 1985 [5 of 1986];

(b) "Cost Accountant in practice" means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959), who holds a valid certificate of practice under sub-section (1) of section 6 of that Act and who is deemed to be in practice under sub-section (2) of section 2 thereof, and includes a firm or limited liability partnership of cost accountants;

(c) "cost auditor" means a Cost Accountant in practice, as defined in clause (b), who is appointed by the Board;

(d) "cost audit report" means the report duly audited and signed by the cost auditor including attachment, annexure, qualifications or observations etc. to cost audit report;

(e) "cost records" means books of account relating to utilisation of materials, labour and other items of cost as applicable to the production of goods or provision of services as provided in section 148 of the Act and these rules;

(f) "form" means a form annexed to these rules;

(g) "institute" means the Institute of Cost Accountants of India constituted under the Cost and Works Accountants Act, 1959 (23 of 1959);

(h) all other words and expressions used in these rules but not defined, and defined in the Act or in the Companies (Specification of Definition Details) Rules, 2014 shall have the same meanings as assigned to them in the Act or in the said rules.

3. Application of Cost Records [Rule 3]

For the purposes of sub-section (1) of section 148 of the Act, the class of companies, including foreign companies defined in clause (42) of section 2 of the Act engaged in the production of the goods or providing services, specified in the Table below, having an overall turnover from all its products and services of rupees thirty five crore or more during the immediately preceding financial year, shall include cost records for such products or services in their books of account, namely:-

Table of Rule 3

(A) Regulated Sectors

S. No.	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)
1.	Telecommunication services made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature (other than broadcasting services) and regulated by the Telecom Regulatory Authority of India under the Telecom Regulatory Authority of India Act, 1997 (24 of I997);	Not applicable.
2.	Generation, transmission, distribution and supply of electricity regulated by the relevant regulatory body or authority under the Electricity Act, 2003 (36 of 2003), other than for captive generation (referred to in the Electricity Rules, 2005);	.....
3.	Petroleum products regulated by the Petroleum and Natural Gas Regulatory Board under the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006);	2709 to 2715;
4.	Drugs and pharmaceuticals;	2901 to 2942; 3001 to 3006.
5.	Fertilisers;	3102 to 3105.
6.	Sugar and industrial alcohol;	1701; 1703; 2207.

(B) Non- regulated Sectors

S. No.	Industry/ Sector/ Product/ Service	CETA Heading (wherever applicable)
1.	Machinery and mechanical appliances used in defence, space and atomic energy sectors excluding any ancillary item or items; **Explanation -** For the purposes of this sub-clause, any company which is engaged in any item or items supplied exclusively for use under this clause, shall be deemed to be covered under these rules.	8401 to 8402; 8801 to 8805; 8901 to 8908.
2.	Turbo jets and turbo propellers;	8411
3.	Arms and ammunitions;	3601 to 3603; 9301 to 9306.

4.	Propellant powders; prepared explosives (other than propellant powders); safety fuses; detonating fuses; percussion or detonating caps; igniters; electric detonators;	3601 to 3603
5.	Radar apparatus, radio navigational aid apparatus and radio remote control apparatus;	8526
6	Tanks and other armoured fighting vehicles, motorised, whether or not fitted with weapons and parts of such vehicles, that are funded (investment made in the company) to the extent of ninety per cent. or more by the Government or Government agencies;	8710
7.	Port services of stevedoring, pilotage, hauling, mooring, re-mooring, hooking, measuring, loading and unloading services rendered by a Port in relation to a vessel or goods regulated by the Tariff Authority for Major Ports under section 111 of the Major Port Trusts Act, 1963 (38 of 1963);	Not applicable.
8.	Aeronautical services of air traffic management, aircraft operations, ground safety services, ground handling, cargo facilities and supplying fuel rendered by airports and regulated by the Airports Economic Regulatory Authority under the Airports Economic Regulatory Authority of India Act, 2008 (27 of 2008);	Not applicable.
9.	Steel;	7201 to 7229; 7301 to 7326
10.	Roads and other infrastructure projects corresponding to para No. (1) (a) as specified in Schedule VI of the Companies Act, 2013;	Not applicable.
11.	Rubber and allied products being regulated by the Rubber Board constituted under the Rubber Act, 1947 (XXIV of 1947).	4001 to 4017
12.	Coffee and tea;	0901 to 0902
13.	Railway or tramway locomotives, rolling stock, railway or tramway fixtures and fittings, mechanical (including electro mechanical) traffic signalling equipment's of all kind;	8601 to 8608.
14.	Cement;	2523; 6811 to 6812
15.	Ores and Mineral products;	2502 to 2522; 2524 to 2526; 2528 to 2530; 2601 to 2617
16.	Mineral fuels (other than Petroleum), mineral oils etc.;	2701 to 2708

17.	Base metals;	7401 to 7403; 7405 to 7413; 7419;7501 to 7508; 7601 to 7614; 7801 to 7802; 7804; 7806; 7901 to 7905; 7907; 8001; 8003; 8007; 8101 to 8113.
18.	Inorganic chemicals, organic or inorganic compounds of precious metals, rare-earth metals of radioactive elements or isotopes, and Organic Chemicals;	2801 to 2853; 2901 to 2942; 3801 to 3807; 3402 to 3403; 3809 to 3824.
19.	Jute and Jute Products;	5303, 5310
20.	Edible Oil;	1507 to 1518
21.	Construction Industry as per para No. (5) (a) as specified in Schedule VI of the Companies Act 2013 (18 of 2013)	Not applicable.
22.	Health services, namely functioning as or running hospitals, diagnostic centres, clinical centres or test laboratories;	Not applicable.
23.	Education services, other than such similar services falling under philanthropy or as part of social spend which do not form part of any business.	Not applicable.
24.	Milk power;	0402
25.	Insecticides;	3808
26.	Plastics and polymers;	3901 to 3914; 3916 to 3921; 3925
27.	Tyres and tubes;	4011 to 4013
28.	Paper;	4801 to 4802.
29.	Textiles;	5004 to 5007; 5106 to 5113; 5205 to 5212; 5303; 5310; 5401 to 5408; 5501 to 5516
30.	Glass;	7003 to 7008; 7011; 7016
31.	Other machinery;	8403 to 8487
32.	Electricals or electronic machinery;	8501 to 8507; 8511 to 8512; 8514 to 8515; 8517; 8525 to 8536; 8538 to 8547.

33.	Production, import and supply or trading of following medical devices, namely:- **(i)** Cardiac stents; **(ii)** Drug eluting stents; **(iii)** Catheters; **(iv)** Intra ocular lenses; **(v)** Bone cements; **(vi)** Heart valves; **(vii)** Orthopaedic implants; **(viii)** Internal prosthetic replacements; **(ix)** Scalp vein set; **(x)** Deep brain stimulator; **(xi)** Ventricular peripheral shud; **(xii)** Spinal implants; **(xiii)** Automatic impalpable cardiac deflobillator; **(xiv)** Pacemaker (temporary and permanent); **(xv)** Patent ductus arteriosus, atrial septal defect and ventricular septal defect closure device; **(xvi)** Cardiac re-synchronize therapy ; **(xvii)** Urethra spinicture devices; **(xviii)** Sling male or female **(xix)** Prostate occlusion device; and **(xx)** Urethral stents:	9018 to 9022

Provided that nothing contained in serial number 33 shall apply to foreign companies having only liaison offices.

Provided further that nothing contained in this rule shall apply to a company which is classified as a micro enterprise or a small enterprise including as per the turnover criteria under sub-section (9) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006).

4. Applicability for Cost Audit [Rule 4]

(1) Every company specified in item (A) of rule 3 shall get its cost records audited in accordance with these rules if the overall annual turnover of the company from all its products and services during the immediately preceding financial year is rupees fifty crore or more and the aggregate turnover of the individual product or products or service or services for which cost records are required to be maintained under rule 3 is rupees twenty five crore or more.

(2) Every company specified in item (B) of rule 3 shall get its cost records audited in accordance with these rules if the overall annual turnover of the company from all its products and services during the immediately preceding financial year is rupees one hundred crore or more and the aggregate turnover of the individual product or products or service or services for which cost records are required to be maintained under rule 3 is rupees thirty five crore or more.

(3) The requirement for cost audit under these rules shall not apply to a company which is covered in rule 3, and –

(i) whose revenue from exports, in foreign exchange, exceed, seventy five per cent of its total revenue; or

(ii) which is operating from a special economic zone."

5. Maintenance of Records [Rule 5]

(1) Every company under these rules including all units and branches thereof, shall, in respect of each of its financial year commencing on or after the 1st day of April, 2014, maintain cost records in **form CRA-1**.

Provided that in case of company covered in serial number 12 and serial numbers 24 to 32 of item (B) of rule 3, the requirement under this rule shall apply in respect of each of its financial year commencing on or after 1st day of April, 2015.

(2) The cost records referred to in sub-rule (1) shall be maintained on regular basis in such manner as to facilitate calculation of per unit cost of production or cost of operations, cost of sales and margin for each of its products and activities for every financial year on monthly or quarterly or half-yearly or annual basis.

(3) The cost records shall be maintained in such manner so as to enable the company to exercise, as far as possible, control over the various operations and costs to achieve optimum economies in utilisation of resources and these records shall also provide necessary data which is required to be furnished under these rules.

6. Cost Audit [Rule 6]

(1) The category of companies specified in rule 3 and the thresholds limits laid down in rule 4, shall within one hundred and eighty days of the commencement of every financial year, appoint a cost auditor.

(2) Every company referred to in sub-rule (1) shall inform the cost auditor concerned of his or its appointment as such and file a notice of such appointment with the Central Government within a period of thirty days of the Board meeting in which such appointment is made or within a period of one hundred and eighty days of the commencement of the financial year, whichever is earlier, through electronic mode, in **Form CRA-2**, alongwith the fee as specified in Companies (Registration Offices and Fees) Rules, 2014.

(3) Every cost auditor appointed as such shall continue in such capacity till the expiry of one hundred and eighty days from the closure of the financial year or till he submits the cost audit report, for the financial year for which he has been appointed.

(3A) Any casual vacancy in the office of a cost auditor, whether due to resignation, death or removal, shall be filled by the Board of Directors within thirty days of occurrence of such vacancy and the company shall inform the Central Government in Form CRA-2 within thirty days of such appointment of cost auditor.

(4) Every cost auditor, who conducts an audit of the cost records of a company, shall submit the cost audit report along with his or its reservations or qualifications or observations or suggestions, if any, in **Form CRA-3**.

(5) Every cost auditor shall forward his report to the Board of Directors of the company within a period of one hundred and eighty days from the closure of the financial year to which the report relates and the Board of directors shall consider and examine such report particularly any reservation or qualification contained therein.

(6) Every company covered under these rules shall, within a period of thirty days from the date of receipt of a copy of the cost audit report, furnish the Central Government with such report alongwith full information and explanation on every reservation or qualification contained therein, in **Form CRA-4** alongwith fees specified in the Companies (Registration Offices and Fees) Rules, 2014.

(7) The provisions of sub-section (12) of section 143 of the Act and the relevant rules made thereunder shall apply *mutatis mutandis* to a cost auditor during performance of his functions under section 148 of the Act and these rules.

Annexure

FORM CRA-1

(Pursuant to Rule 5(1) of the Companies (Cost Records and Audit) Rules, 2014)

Particulars relating to the Items of Costs to be included in the Books of Accounts

1. Material Costs.-

(a) Proper records shall be maintained showing separately all receipts, issues and balances both in quantities and cost of each item of raw material required for the production of goods or rendering of services under reference.

(b) The material receipt shall be valued at purchase price including duties and taxes, freight inwards, insurance, and other expenditure directly attributable to procurement (net of trade discounts, rebates, taxes and duties refundable or to be credited by the taxing authorities, that can be quantified with reasonable accuracy at the time of acquisition.

(c) Finance costs incurred in connection with the acquisition of materials shall not form part of material cost.

(d) Self-manufactured materials or captive consumption shall be valued including direct material cost, direct employee cost, direct expenses, factory overheads, share of administrative overheads relating to production but excluding share of other administrative overheads, finance cost and marketing overheads.

(e) Spares which are specific to an item of equipment shall not be taken to inventory, but shall be capitalized with the cost of the specific equipment. Cost of capital spares or insurance spares whether procured with the equipment or subsequently, shall be amortised over a period not exceeding the useful life of the equipment.

(f) Normal loss or spoilage of material prior to reaching the factory or at places where the services are provided shall be absorbed in the cost of balance materials net of amounts recoverable from suppliers, insurers, carriers or recoveries from disposal.

(g) Losses due to shrinkage or evaporation and gain due to elongation or absorption of moisture etc., before the material is received shall be absorbed in material cost to the extent they are normal with corresponding adjustment in the quantity.

(h) The forex component of imported material cost shall be converted at the rate on the date of the transaction. Any subsequent change in the exchange rate till payment or otherwise shall not form part of the material cost.

(i) Any demurrage or detention charges, or penalty levied by transport or other authorities shall not form part of the cost of materials.

(j) Subsidy or Grant or Incentive and any such payment received or receivable with respect to any material shall be reduced from cost for ascertainment of the cost of the cost object to which such amounts are related.

(k) Issues shall be valued using appropriate assumptions on cost flow, e.g. First-in-First-out, Last-in-First-

out, Weighted Average Rate. The method of valuation shall be followed on a consistent basis

(l) Where materials are accounted at standard cost, the price variances related to materials shall be treated as part of material cost.

(m) Any abnormal cost shall be excluded from the material cost.

(n) Wherever, material costs include transportation costs, determination of costs of transportation shall be governed by Para No. 9 on Determination of Cost of Transportation.

(o) Self-manufactured components and sub-assemblies or captive consumption shall be valued including direct material cost, direct employee cost, direct expenses, factory overheads, share of administrative overheads relating to production but excluding share of other administrative overheads, finance cost and marketing overheads.

(p) The material cost of normal scrap or defectives which are rejects shall be included in the material cost of goods manufactured. The material cost of actual scrap or defectives, not exceeding the normal shall be adjusted in the material cost of good production. Material Cost of abnormal scrap or defectives shall not be included in material cost but treated as loss after giving credit to the realisable value of such scrap or defectives.

(q) Material costs shall be directly traced to a Cost object to the extent it is economically feasible or shall be assigned to the cost object on the basis of material quantity consumed or similar identifiable measure and valued as per above principles.

(r) Where the material costs are not directly traceable to the cost object, the same shall be assigned on a suitable basis like technical estimates.

(s) Where a material is processed or part manufactured by a third party according to specifications provided by the buyer, the processing or manufacturing charges payable to the third party shall be treated as part of the material cost.

(t) Wherever part of the manufacturing operations or activity is subcontracted, the subcontract charges related to materials shall be treated as direct expenses and assigned directly to the cost object.

(u) The cost of indirect materials shall be assigned to the various Cost objects based on a suitable basis such as actual usage or technical norms or a similar identifiable measure.

(v) The cost of materials like catalysts, dies, tools, moulds, patterns etc., which are relatable to production over a period of time shall be amortized over the production units benefited by such cost.

(w) The cost of indirect material with life exceeding one year shall be included in cost over the useful life of the material.

2. Employee Cost

(a) Proper records shall be maintained in respect of employee costs in such a manner as to enable the company to book these expenses cost centre wise or department wise with reference to goods or services under reference and to furnish necessary particulars. Where the employees work in such a manner that it is not possible to identify them with any specific cost centre or service centre or department, the employees cost shall be apportioned to the cost centre or

service centres or departments on equitable and reasonable basis and applied consistently.

(b) Employee cost shall be ascertained taking into account the gross pay including all allowances payable along with the cost to the employer of all the benefits.

(c) Bonus whether payable as a statutory minimum or on a sharing of surplus shall be treated as part of employee cost. Ex gratia payable in lieu of or in addition to bonus shall also be treated as part of the employee cost.

(d) Remuneration payable to Managerial Personnel including Executive Directors on the Board and other officers of a corporate body under a statute shall be considered as part of the employee cost of the year under reference whether the whole or part of the remunerate is computed as a percentage of profits. Remuneration paid to non executive directors shall not form part of employee cost but shall form part of administrative overheads.

(e) Separation costs related to voluntary retirement, retrenchment, termination and other related matters shall be amortised over the period benefitting from such costs.

(f) Employee cost shall not include imputed costs.

(g) Cost of Idle time is ascertained by the idle hours multiplied by the hourly rate applicable to the idle employee or a group of employees.

(h) Where employee cost is accounted at standard cost, variances due to normal reasons related to employee cost shall be treated as part of employee cost. Variances due to abnormal reasons shall be treated as part of abnormal cost.

(i) Any subsidy, grant, incentive or any such payment received or receivable with respect to any employee cost shall be reduced for ascertainment of cost of the cost object to which such amounts are related.

(j) Any abnormal cost where it is material and quantifiable shall not form part of the employee cost.

(k) Penalties, damages paid to statutory authorities or other third parties shall not form part of the employee cost.

(l) The cost of free housing, free conveyance and any other similar benefits provided to an employee shall be determined at the total cost of all resources consumed in providing such benefits.

(m) Any recovery from the employee towards any benefit provided, namely, housing shall be reduced from the employee cost.

(n) Any change in the cost accounting principles applied for the determination of the employee cost shall be made only if it is required by law or a change would result in a more appropriate preparation or presentation of cost statements of an enterprise.

(o) Where the employee services are traceable to a cost object, such employees' cost shall be assigned to the cost object on the basis such as time consumed or number of employees engaged or other related basis or similar identifiable measure.

(p) While determining whether a particular employee cost is chargeable to a separate cost object, the principle of materiality shall be adhered to.

(q) Where the employee costs are not directly traceable to the cost object, the same shall be assigned on suitable basis like estimates of time based on time study.

(r) The amortised separation costs related to voluntary retirement, retrenchment, and termination or other related matters for the period shall be treated as indirect cost and assigned to the cost objects in an appropriate manner provided that unamortized amount related to discontinue operations, shall not be treated as employee cost.

(s) Recruitment costs, training cost and other such costs shall be treated as overheads and dealt with accordingly.

(t) Overtime premium shall be assigned directly to the cost object or treated as overheads depending on the economic feasibility and the specific circumstance requiring such overtime.

(u) Idle time cost shall be assigned direct to the cost object or treated as overheads depending on the economic feasibility and the specific circumstances causing such idle time.

3. Utilities

(a) Proper records shall be maintained showing the quantity and cost of each major utility such as power, water, steam, effluent treatment and other related utilities produced and consumed by the different cost centres in such detail as to have particulars for each utility separately.

(b) Each type of utility shall be treated as a distinct cost object.

(c) Cost of utilities purchased shall be measured at cost of purchase including duties and taxes, transportation cost, insurance and other expenditure directly attributable to procurement (net of trade discounts, rebates, taxes and duties refundable or to be credited) that can be quantified with reasonable accuracy at the time of acquisition.

(d) Cost of self-generated utilities for own consumption shall comprise direct material cost, direct employee cost, direct expenses and factory overheads.

(e) In case of utilities generated for the purpose of inter unit transfers, the distribution cost incurred for such transfers shall be added to the cost of utilities determined as above.

(f) Cost of utilities generated for the intercompany transfers shall comprise direct material cost, direct employee cost, direct expenses, factory overheads, distribution cost and share of administrative overheads.

(g) Cost of utilities generated for the sale to outside parties shall comprise direct material cost, direct employee cost, direct expenses, factory overheads, distribution cost, share of administrative overheads and marketing overheads. The sale value of such utilities shall also include the margin.

(h) Finance costs incurred in connection with the utilities shall not form part of cost of utilities

(i) The cost of utilities shall include the cost of distribution of such utilities. The cost of distribution shall consist of the cost of delivery of utilities up to the point of consumption.

(j) Cost of utilities shall not include imputed costs.

(k) Where cost of utilities is accounted at standard cost, the price variances related to utilities shall be treated as part of cost of utilities and the portion of usage variances due to normal reasons shall be treated as part of cost of utilities Usage variances due to abnormal reasons shall be treated as part of abnormal cost.

(l) Any subsidy or grant or incent.ve or any such payment received or receivable with respect to any cost of utilities shall be reduced for ascertainment of the cost to which such amounts are related.

(m) The cost of production and distribution of utilities shall be determined based on the normal capacity or actual capacity utilization whichever is higher and unabsorbed cost, if any, shall be treated as abnormal cost. Cost of a Stand-by Utility shall include the committed costs of maintaining such a utility.

(n) Any abnormal cost where it is material and quantifiable shall not form part of the cost of utilities

(o) Penalties damages paid to statutory authorities or other third parties shall not form part of the cost of utilities.

(p) Credits or recoveries relating to the utilities including cost of utilities provided to outside parties material and quantifiable, shall be deducted from the total cost of utility to arrive at the net cost of 'utility.

(q) Any change in the cost accounting principles applied for the measurement of the cost of utilities shall be made only if. it is required by law or a change would result in a more appropriate preparation or presentation of cost statements of an organization.

(r) While assigning cost of utilities, traceabi.ity to a cost object in an economically feasible manner shall be the guiding principle.

(s) Where the cost of utilities is not directly traceable to cost object, it shall be assigned on the most appropriate basis.

(t) The most appropriate basis of distribution of cost of a utility to the departments consuming services is to be derived from usage parameters.

4. Direct Expenses

(a) Proper records shall be maintained in respect of direct expenses in such a manner as to enable the company to book these expenses cost centre wise or cost object or department wise with reference to goods or services under reference and to furnish necessary particulars.

(b) Direct expenses incurred for the use of bought out resources shall be determined at invoice or agreed price including duties and taxes, and other expenditure directly attributable there to net of trade discounts, rebates, taxes and duties refundable or to be credited.

(c) Other direct expenses shall be determined on the basis of amount incurred, in connection therewith.

(d) Direct expenses paid or incurred in lump- sum or which are in the nature of 'one- time' payment, shall be amortised on the basis of the estimated output or benefit to be derived from such direct expenses.

(e) If an item of direct expenses does not meet the test of materiality, it can be treated as part of overheads.

(f) Finance costs incurred in connection with the self- generated or procured resources shall not form part of direct expenses. Direct expenses shall not include imputed costs.

(g) Where direct expenses are accounted at standard cost, variances due to normal reasons shall be treated as part of the direct expenses. Variances due to abnormal reasons shall not form part of the direct expenses.

(h) Any subsidy or grant or incentive or any such payment received or receivable with respect to any

direct expenses shall be reduced for ascertainment of the cost of the cost object to which such amounts are related.

(i) Any abnormal portion of the direct expenses where it is material and quantifiable shall not form part of the direct expenses.

(j) Penalties, damages paid to statutory authorities or other third parties shall not form part of the direct expenses.

(k) Credits recoveries relating to the direct expenses, material and quantifiable, shall be deducted to arrive at the net direct expenses.

(l) Any change in the cost accounting principles applied for the measurement of the direct expenses shall be made only if, it is required by law or a change would result in a more appropriate preparation or presentation of cost statements of an organisation.

(m) Direct expenses that are directly traceable to the cost object shall be assigned to that cost object.

5. Repairs and Maintenance.-

(a) Proper records showing the expenditure incurred by the workshop, tool room and on repairs and maintenance in the various cost centres or departments shall be maintained under different heads.

(b) Repairs and maintenance cost shall be the aggregate of direct and indirect cost relating to repairs and maintenance activity. Direct cost shall include the cost of materials, consumable stores, spares, manpower, equipment usage, utilities and other identifiable resources consumed in such activity! Indirect cost shall include the cost of resources common to various repairs and maintenance activities such as manpower, equipment usage and other costs allocable to such activities.

(c) Cost of in-house repairs and maintenance activity shall include cost of materials, consumable stores, spares, manpower, equipment usage, utilities, and other resources used in such activity.

(d) Cost of repairs and maintenance activity carried out by outside contractors inside the entity shall include charges payable to the contractor and cost of materials, consumable stores, spares, manpower, equipment usage, utilities, and other costs incurred by the entity for such jobs.

(e) Cost of repairs and maintenance jobs carried out by contractor at its premises shall be determined at invoice or agreed price including duties and taxes, and other expenditure directly attributable thereto net of discounts (other than cash discount), taxes and duties refundable or to be credited. This cost shall also include the cost of other resources provided to the contractors.

(f) Cost of repairs and maintenance jobs carried out by outside contractors shall include charges made by the contractor and cost of own materials, consumable stores, spares, manpower, equipment usage, utilities and other costs used in such jobs.

(g) Each type of repairs and maintenance shall be treated as a distinct activity, if material and identifiable.

(h) Cost of repairs and maintenance activity shall be measured for each major asset category separately.

(i) Cost of spares replaced which do not enhance the future economic benefits from the existing asset beyond its previously assessed standard of performance shall be included under repairs and maintenance cost.

(j) High value spare, when replaced by a new spare and is reconditioned, which is expected to result

in future economic benefits, the same shall be taken into stock. Such a spare shall be valued at an amount that measures its service potential in relation to a new spare which amount shall not exceed the cost of reconditioning the spare. The difference between the total of the cost of the new spare and the reconditioning cost and the value of the reconditioned spare shall be treated as repairs and maintenance cost.

(k) The cost of major overhaul shall be amortised on a rational basis.

(l) Finance costs Incurred in connection with the repairs and maintenance activities shall not form part of Repairs and maintenance costs.

(m) Repairs and maintenance costs shall not include imputed costs.

(n) Price variances related to repairs and maintenance, where standard costs are in use, shall be treated as part of repairs and maintenance cost. The portion of usage variances attributable to normal reasons shall be treated as part of repairs and maintenance cost. Usage variances attributable to abnormal reasons shall be excluded from repairs and maintenance cost.

(o) Subsidy or Grant or Incentive or amount of similar nature received or receivable with respect to repairs and maintenance activity, if any, shall be reduced for ascertainment of the cost of the cost object to which such amounts are related.

(p) Any repairs and maintenance cost resulting from some abnormal circumstances, namely, major fire, explosion, flood and similar events, if material and quantifiable, shall not form part of the repairs and maintenance cost.

(q) Fines, penalties, damages and similar levies paid to statutory authorities or other third parties shall not form part of the repairs and maintenance cost.

(r) Credits or recoveries relating to the repairs and maintenance activity, material and quantifiable, shall be deducted to arrive at the net repairs and maintenance cost.

(s) Any change in the cost accounting principles applied for the measurement of the repairs and maintenance cost shall be made only if, it is required by law or a change would result in a more appropriate preparation or presentation of cost statements of an organisation.

(t) Repairs and maintenance costs shall be traced to a cost object to the extent economically feasible.

(u) Where the repairs and maintenance cost is not directly traceable to cost object, it shall be assigned based on either of the following the principles of (1) Cause and Effect - Cause is the process or operation or activity and effect is the incurrence of cost and (2) Benefits received - overheads are to be apportioned to the various cost objects in proportion to the benefits received by them.

(v) If the repairs and maintenance cost (including the share of the cost of reciprocal exchange of services) is shared by several cost objects, the related cost shall be measured as an aggregate and distributed among the cost objects.

6. Fixed Assets and depreciation.-

(a) Proper and adequate records shall be maintained for assets used for production of goods or rendering of services under reference in respect of which depreciation has to be provided for These records shall, inter-alia, indicate grouping of assets under each good or service, the cost of acquisition of each item of asset including installation charges, date of acquisition and rate of depreciation.

(b) Depreciation and amortisation shall be measured based on the depreciable amount and the useful life. The residual value of an intangible asset shall be assumed to be zero unless:

(i) there is a commitment by a third party to purchase the asset at the end of its useful life, or

(ii) there is an active market for the asset and:

a. residual value can be determined by reference to that market; and

b. it is probable that such a market will exist at the end of the asset's useful life.

c. The residual value of a fixed asset shall be considered as zero if the entity is unable to estimate the same with reasonable accuracy.

(c) The minimum amount of depreciation to be provided shall not be less than the amount calculated as per principles and methods as prescribed by any law or regulations applicable to the entity and followed by it.

(d) In case of regulated industry the amount of depreciation shall be the same as prescribed by the concerned regulator.

(e) While estimating the useful life of a depreciable asset, consideration shall be given to the following factors:

(i) Expected physical wear and tear;

(ii) Obsolescence; and

(iii) Legal or other limits on the use of the asset.

(f) The useful life of an intangible asset that arises from contractual or other legal rights shall not exceed the period of the contractual or other legal rights, but may be shorter depending on the period over which the entity expects to use the asset.

(g) If the contractual or other legal rights are conveyed for a limited term that can be renewed the useful life of the intangible asset shall include the renewal period(s) only if there is evidence to support renewal by the entity without significant cost. The useful life of a re-acquired right recognised as an intangible asset in a business combination is the remaining contractual period of the contract in which the right was granted and shall not include renewal periods.

(h) The useful life of an intangible asset, in any situation, shall not exceed 10 years from the date it is available for use.

(i) Depreciation shall be considered from the time when a depreciable asset is first put into use An asset which is used only when the need arises but is always held ready for use. Example: fire extinguisher, stand by generator, safety equipment shall be considered to be an asset in use Depreciable assets shall be considered to be put into use when commercial production of goods and services commences.

(j) Depreciation on an asset which is temporarily retired from production of goods and services shall be considered as abnormal cost for the period when the asset is not in use.

(k) Depreciation of any addition or extension to an existing depreciable asset which becomes an integral part of that asset shall be based on the remaining useful life of that asset.

(l) Depreciation of any addition or extension to an existing depreciable asset which retains a separate identity and is capable of being used after the expiry of the useful life of that asset shall be based on the estimated useful life of that addition or extension.

(m) The impact of higher depreciation due to revaluation of assets shall not be assigned to cost object.

(n) Impairment loss on assets shall be excluded from cost of production.

(o) The method of depreciation used shall reflect the pattern in which the asset's future economic benefits are expected to be consumed by the entity.

(p) An entity can use any of the methods of depreciation to assign depreciable amount of an asset on a systematic basis over its useful life, namely, Straight-line method; Diminishing balance method; and Units of production method, etc.

(q) The method of amortisation of intangible asset shall reflect the pattern in which the economic benefits accrue to entity.

(r) The methods and rates of depreciation applied shall be reviewed at least annually and, if there has been a change in the expected pattern of consumption or loss of future economic benefits, the method applied shall be changed to reflect the changed pattern.

(s) Spares purchased specifically for a particular asset, or class of assets, and which would become redundant if that asset or class of asset was retired or use of that asset was discontinued, shall form part of that asset. The depreciable amount of such spares shall be allocated over the useful life of the asset.

(t) Cost of small assets shall be written off in the period in which they were purchased as per the accounting policy of the entity.

(u) Depreciation of an asset shall not be considered in case cumulative depreciation exceeds the original cost of the asset, net of residual value.

(v) Where depreciation for an addition of an asset is measured on the basis of the number of days for which the asset was used for the preparation and presentation of financial statements, depreciation of the asset for assigning to cost of object shall be measured in relation to the period, the asset actually utilized.

(w) Depreciation shall be traced to the cost object to the extent economically feasible.

(x) Where the depreciation is not directly traceable to cost object, it shall be assigned based on either of the following two principles; namely

(i) **Cause and Effect -** Cause is the process or operation or activity and effect is the incurrence of cost and

(ii) **Benefits received -** overheads are to be apportioned to the various cost objects in proportion to the benefits received by them.

7. Overheads

(a) Proper records shall be maintained for various items of indirect expenses comprising overheads pertaining to goods or services under reference. These expenses shall be analysed, classified and grouped according to functions.

(b) Overheads representing procurement of resources shall be determined at invoice or agreed price including duties and taxes, and other expenditure directly attributable thereto net of discounts (other than cash discounts), taxes and duties refundable or to be credited.

(c) Overheads other than those referred to above shall be determined on the basis of cost incurred in connection therewith.

(d) Any abnormal cost where it Is material and quantifiable shall not form part of the overheads.

(e) Finance costs incurred In connection with procured or self-generated resources shall not form part of overheads.

(f) Overheads shall not include imputed cost.

(g) Overhead variances attributable to normal reasons shall be treated as part of overheads. Overhead variances attributable to abnormal reasons shall be excluded from overheads.

(h) Any subsidy or grant or incentive or amount of similar nature received or receivable with respect to overheads shall be reduced for ascertainment of the cost of the cost object to which such amounts are related.

(i) Fines, penalties, damages and similar levies paid to statutory authorities or other third parties shall not form part of the overheads.

(j) Credits or recoveries relating to the overheads, material and quantifiable, shall be deducted from the total overhead to arrive at the net overheads. Where the recovery exceeds the total overheads, the balance recovery shall be treated as other income.

(k) Any change in the cost accounting principles applied for the measurement of the overheads shall be made only if, it is required by law or a change would result in a more appropriate preparation or presentation of cost statements of an entity.

(l) While assigning overheads, traceability to a cost object in an economically feasible manner shall be the guiding principle. The cost which can be traced directly to a cost object shall be directly assigned.

(m) Overheads shall be classified according to functions, viz., works, administration, selling and distribution, head office, corporate etc.

(n) Assignment of overheads to the cost objects shall be based on either of the following two principles; **(1) Cause and Effect -** Cause is the process or operation or activity and effect is the incurrence of cost and **(2) Benefits received -** overheads are to be apportioned to the various cost objects in proportion to the benefits received by them.

(o) The variable production overheads shall be absorbed to products or services based on actual capacity utilisation.

(p) The fixed production overheads shall be absorbed based on the normal capacity.

(q) Assignment of Administration Overheads shall be in accordance with para No. 8.

(r) Marketing overheads that can be identified to a product or service shall be assigned to that product or service.

(s) Marketing overheads that cannot be identified to a product or service shall be assigned to the products or services on the most appropriate basis.

8. Administrative Overheads

(a) Administrative overheads shall be the aggregate of cost of resources consumed in activities relating to general management and administration of an organisation.

(b) In case of leased assets, if the lease is an operating lease, the entire rentals shall be included in the administrative overheads. If the lease is a financial lease, the finance cost portion shall be segregated and treated as part of finance costs.

(c) The cost of software (developed in house, purchased, licensed or customised), including up-gradation cost shall be amortised over its estimated useful life.

(d) The cost of administrative services procured from outside shall be determined at invoice or agreed price including duties and taxes, and other expenditure directly attributable thereto net of discounts (other than cash discount), taxes and duties refundable or to be credited.

(e) Any subsidy or grant or incentive or any amount of similar nature received or receivable with respect to any Administrative overheads shall be reduced for ascertainment of the cost of the cost object to which such amounts are related.

(f) Administrative overheads shall not include any abnormal administrative cost.

(g) Fines, penalties, damages and similar levies paid to statutory authorities or other third parties shall not form part of the administrative overheads.

(h) Credits or recoveries relating to the administrative overheads including those rendered without any consideration, material and quantifiable, shall be deducted to arrive at the net administrative overheads.

(i) Any change in the cost accounting principles applied for the measurement of the administrative overheads shall be made only if it is required by law or a change would result in a more appropriate preparation or presentation of cost statements of an organisation.

(j) While assigning administrative overheads, traceability to a cost object in an economically feasible manner shall be the guiding principle.

(k) Assignment of administrative overheads to the cost objects shall be based on either of the following two principles; namely: -

(i) Cause and Effect - Cause is the process or operation or activity and effect is the incurrence of cost.

(ii) Benefits received - overheads are to be apportioned to the various cost objects in proportion to the benefit received by them.

9. Transportation Cost

(a) Proper records shall be maintained for recording the actual cost of transportation showing each element of cost such as freight, cartage, transit insurance and others after adjustment for recovery of transportation cost. Abnormal costs relating to transportation, if any, are to be identified and recorded for exclusion of computation of average transportation cost.

(b) In case of a manufacturer having his own transport fleet, proper records shall be maintained to determine the actual operating cost of vehicles showing details of various elements of cost, such as salaries and wages of driver, cleaners and others, cost of fuel, lubricant grease, amortized cost of tyres and battery, repairs and maintenance, depreciation of the vehicles, distance covered and trips made, goods hauled and transported to the depot.

(c) In case of hired transport charges incurred for despatch of goods, complete details shall be recorded as to date of despatch, type of transport used, description of the goods, destination of buyer, name of consignee, challan number, quantity of goods in terms of weight or volume, distance involved amount paid and other related details.

(d) Records shall be maintained separately for inward and outward transportation cost specifying the details particulars of goods despatched, name of supplier or recipient, amount of freight etc.

(e) Separate records shall be maintained for identification of transportation cost towards inward movement of material (procurement) and transportation cost of outward movement of goods removed or sold for both home consumption and export.

(f) Records for transportation cost from factory to depot and thereafter shall be maintained separately.

(g) Records for transportation cost for carrying any material or product to job-workers place and back shall be maintained separately so as include the same in the transaction value of the product.

(h) Records for transportation cost for goods involved exclusively for trading activities shall be maintained separately and the same shall not be included for claiming any deduction for calculating assessable value excisable goods cleared for home consumption.

(i) Records of transportation cost directly allocable to a particular category of products shall be maintained separately so that allocation can be made.

(j) For common transportation cost, both for own fleet or hired ones, proper records for basis of apportionment shall be maintained.

(k) Records for transportation cost for exempted goods, excisable goods cleared for export shall be maintained separately.

(l) Separate records of cost for mode of transportation other than road like ship or air are to be maintained, which shall be included in total cost of transportation.

(m) Inward transportation costs shall form the part of the cost of procurement of materials which shall be identified for proper allocation or apportionment to the materials or products.

(n) Outward transportation cost shall form the part of the cost of sale and shall be allocated or apportioned to the materials and goods on a suitable basis.

(o) The following basis shall be used, in order of priority, for apportionment of outward transportation cost depending upon the nature of products, unit of measurement followed and type of transport used, namely

- **(i)** Weight;
- **(ii)** Volume of goods;
- **(iii)** Tonne- km;
- **(iv)** Unit or Equivalent unit;
- **(v)** Value of goods;
- **(vi)** Percentage of usage of space.

(p) Once a basis of apportionment is adopted, the same shall be followed consistently.

(q) For determining the transportation cost per unit, distance shall be factored in to arrive at weighted average cost.

(r) Abnormal and non recurring cost shall not be a part of transportation cost.

10. Royalty and Technical Know-how.-

(a) Adequate records shall be maintained showing royalty or technical know-how fee including other recurring or non-recurring payments of similar nature, if any, made for the goods or services under reference to collaborators or technology suppliers in terms of agreements entered into with them.

(b) Royalty and technical know-how Fee paid or incurred in lump-sum or which are in the nature of 'one-time' payment, shall be amortised on the basis of the estimated output or benefit to be derived from the related asset. Amortisation of the amount of royalty or technical know- how fee paid for which the benefit is ensued in the current or future periods shall be determined based on the production or service volumes estimated for the period over which the asset is expected to benefit the entity.

(c) Amount of the royalty and technical know-how fee shall not include finance costs and imputed costs.

(d) Any subsidy or grant or incentive or any such payment received or receivable with respect to amount of royalty and technical know-how fee shall be reduced to measure the amount of royalty and technical know- how fee.

(e) Penalties, damages paid to statutory authorities or other third parties shall not form part of the amount of royalty and technical know-how fee.

(f) Credits or recoveries relating to the amount royalty and technical know-how fee, material and quantifiable, shall be deducted to arrive at the net amount of royalty and technical know-how fee.

(g) Any change in the cost accounting principles applied for the measurement of the amount of royalty and technical know-how fee shall be made only if, it is required by law or a change would result in a more appropriate preparation or presentation of cost statements of an organisation.

(h) Royalty and technical know-how fee that is directly traceable to a cost object shall be assigned to that cost object. In case such fee is not directly traceable to a cost object then it shall be assigned on any of the following basis, namely: -

(i) Units produced;

(ii) Units sold; or

(iii) Sales value.

(i) The amount of royalty fee paid for mining rights shall form part of the cost of material.

(j) The amount of royalty and technical know-how fee shall be assigned on the nature or purpose of such fee. The amount of royalty and technical know-how fee related to product or process know how shall be treated as cost of production; if related to trademarks or brands shall be treated as cost of sales.

11. Research and Development Expenses

(a) Research and development costs shall include all the costs that are directly traceable to research or development activities or that can be assigned to research and development activities strictly on the basis of (a) cause and effect or (b) benefits received Such costs shall include the following elements, namely:-

(i) the cost of materials and services consumed in research and development activities;

(ii) cost of bought out materials and hired services as per invoice or agreed price including duties and taxes directly attributable thereto net of trade discounts, rebates, taxes and duties refundable or to be credited;

(iii) the salaries, wages and other related costs of personnel engaged in research and development activities;

(iv) the depreciation of equipment and facilities, and other tangible assets, and amortisation of intangible assets to the extent that they are used for research and development activities;

(v) overhead costs, other than general administrative costs, related to research and development activities;

(vi) costs incurred for carrying out research and development activities by other entities and charged to the entity;

(vii) expenditure incurred in securing copyrights or licences;

(viii) expenditure incurred for developing computer software;

(ix) costs incurred for the design of tools, jigs, moulds and dies; and

(x) other costs that can be directly attributed to research and development activities and can be identified with specific projects.

(b) Subsidy or grant or incentive or amount of similar nature received or receivable with respect to research and development activity, if any, shall be reduced from the cost of such research, and development activity.

(c) Any abnormal cost where it is material and quantifiable shall not form part of the research and development cost.

(d) Fines, penalties, damages and similar levies paid to statutory authorities or other third parties shall not form part of the research and development cost.

(e) Research and development costs shall not include imputed costs.

(f) Credits or recoveries relating to research and development cost, if material and quantifiable, including from the sale of output produced from the research and development activity shall be deducted from the research and development cost.

(g) Research and development costs attributable to a specific cost object shall be assigned to that cost object directly. Research and development costs that are not attributable to a specific product or process shall not form part of the product cost.

(h) Development cost which results in the creation of an intangible asset shall be amortised over its useful life. Assignment of development costs shall be based on the principle of "benefits received".

(i) Research and development costs incurred for the development and improvement of an existing process or product shall be included in the cost of production. In case the Research and development activity related to the improvement of an existing process or product continues for more than one accounting period, the cost of the same shall be accumulated and amortised over the estimated period of use of the improved process or estimated period over which the improved product shall be produced by the entity after the commencement of commercial production, as the case may be, if the improved process or product is distinctly different from the existing process or product and the product is marketed as a new product. The amount allocated to a particular period shall be included in the cost of production of that period. If the expenditure is only to improve the quality of the existing product or minor modifications in attributes, the principle shall not be applied.

(j) Development costs attributable to a saleable service namely, providing technical know-how to outside parties shall be accumulated separately and treated as cost of providing the service.

12. Quality control expenses

(a) Adequate records shall be maintained to indicate the expenses incurred in respect of quality control department or cost centre or service centre for goods or services under reference. Where these services are also utilized for other goods or services of the company, the basis of apportionment to goods or services under reference and to other goods or services shall be on equitable and reasonable basis and applied consistently.

(b) Quality control cost incurred in-house shall be the aggregate of the cost of resources consumed in the quality control activities of the entity. The cost of resources procured from outside shall be determined at invoice or agreed price including duties and taxes, and other expenditure directly attributable thereto net of discounts (other than cash discounts), taxes and duties refundable or to be credited by the Tax Authorities. Such cost shall include cost of conformance to quality, namely, (a) prevention cost; and (b) appraisal cost.

(c) Identification of quality control costs shall be based on traceability in an economically feasible manner.

(d) Quality control costs other than those referred to above shall be determined on the basis of amount incurred in connection therewith.

(e) Finance costs incurred in connection with the self-generated or procured resources shall not form part of quality control cost.

(f) Quality control costs shall not include imputed costs.

(g) Any Subsidy or grant or incentive or any such payment received or receivable with respect to any quality control cost shall be reduced for ascertainment of the cost of the cost object to which such amounts are related.

(h) Any abnormal portion of the quality control cost where it is material and quantifiable shall not form part of the cost of quality control.

(i) Penalties, damages paid to statutory authorities or other third parties shall not form part of the quality control cost.

(j) Any change in the cost accounting principles applied for the measurement of the quality control cost shall be made only if, it is required by law or a change would result in a more appropriate preparation or presentation of cost statements of an organisation.

(k) Quality control cost that is directly traceable to the cost object shall be assigned to that cost object. Assignment of quality control cost to the cost objects shall be based on benefits received by them on the principles, namely:-

(i) Cause and effect - Cause is the process or operation or activity and effect is the incurrence of cost and

(ii) Benefits received - overheads are to be apportioned to the various cost objects in proportion to the benefits received by them.

13. Pollution control expenses.-

(a) Adequate records shall be maintained to indicate the expenses incurred in respect of pollution control. The basis of apportionment to goods or services under reference and to other goods or services shall be on equitable and reasonable basis and applied consistently.

(b) Pollution control costs shall be the aggregate of direct and indirect cost relating to pollution control activity. Direct cost shall include the cost of materials, consumable stores, spares, manpower, equipment usage, utilities, resources for testing and certification and other identifiable resources consumed in activities such as waste processing, disposal, remediation and others. Indirect cost shall include the cost of resources common to various pollution control activities such as pollution control registration and such like expenses.

(c) Costs of pollution control which are internal to the entity shall be accounted for when incurred. They shall be measured at the historical cost of resources consumed.

(d) Future remediation or disposal costs which are expected to be incurred with reasonable certainty as part of onerous contract or constructive obligation, legally enforceable shall be estimated and accounted based on the quantum of pollution generated in each period and the associated cost of remediation or disposal in future.

(e) Contingent future remediation or disposal costs e.g. those likely to arise on account of future legislative changes on pollution control shall not be treated as cost until the incidence of such costs become reasonably certain and can be measured.

(f) External costs of pollution which are generally the costs imposed on external parties including social costs are difficult to estimate with reasonable accuracy and are excluded from general purpose cost statements.

(g) Social costs of pollution are measured by economic models of cost measurement. The cost by way of compensation by the polluting entity either under future legislation or under social pressure cannot be quantified by traditional models of cost measurement. They are best kept out of general purpose cost statements.

(h) Cost of in-house pollution control activity shall include cost of materials, consumable stores, spares, manpower, equipment usage, utilities, and other resources used in such activity.

(i) Cost of pollution control activity carried out by outside contractors inside the entity shall include charges payable to the contractor and cost of materials, consumable stores, spares, manpower, equipment usage, utilities, and other costs incurred by the entity for such jobs.

(j) Cost of pollution control jobs carried out by contractor at its premises shall be determined at invoice or agreed price including duties and taxes, and other expenditure directly attributable thereto net of discounts (other than cash discount), taxes and duties refundable or to be credited. This cost shall also include the cost of other resources provided to the contractors.

(k) Cost of pollution control jobs carried out by outside contractors shall include charges made by the contractor and cost of own materials, consumable stores, spares, manpower, equipment usage, utilities and other costs used in such jobs.

(l) Each type of pollution control namely, water, air, soil pollution shall be treated as a distinct activity, if material and identifiable.

(m) Finance costs incurred in connection with the pollution control activities shall not form part of pollution control costs.

(n) Pollution control costs shall not include imputed costs.

(o) Price variances related to pollution control, where standard costs are in use, shall be treated as part of pollution control cost. The portion of usage variances attributable to normal reasons shall be treated as part of pollution control cost. Usage variances attributable to abnormal reasons shall be excluded from pollution control cost.

(p) Subsidy or grant or incentive or amount of similar nature received or receivable with respect to Pollution control activity, if any, shall be reduced for ascertainment of the cost of the cost object to which such amounts are related.

(q) Any Pollution control cost resulting from abnormal circumstances, if material and quantifiable, shall not form part of the pollution control cost.

(r) Fines, penalties, damages and similar levies paid to statutory authorities or other third parties shall not form part of the pollution control cost.

(s) Credits or recoveries relating to the pollution control activity, material and quantifiable, shall be deducted to arrive at the net pollution control cost.

(t) Research and development cost to develop new process, new products or use of new materials to avoid or mitigate pollution shall be treated as research and development costs and not included under pollution control costs. Development costs incurred for commercial development of such product, process or material shall be included in pollution control costs.

(u) Any change in the cost accounting principles applied for the measurement of the pollution control cost shall be made only if, it is required by law or a change would result in a more appropriate preparation or presentation of cost statements of an organization.

(v) Pollution Control costs shall be traced to a cost object to the extent economically feasible.

(w) Direct costs of pollution control such as treatment and disposal of waste shall be assigned directly to the product, where traceable economically.

(x) Where these costs are not directly traceable to the product but are traceable to a process which causes pollution, the costs shall be assigned to the products passing through the process based on the quantity of the pollutant generated by the product.

(y) Where the pollution control cost is not directly traceable to cost object, it shall be treated as overhead and assigned based on either of the following two principles; namely:-

(1) Cause and Effect - Cause is the process or operation or activity and effect is the incurrence of cost and

(2) Benefits received - overheads are to be apportioned to the various cost objects in proportion to the benefits received by them.

14. Service department expenses.-

(a) Proper records shall be maintained in respect of service departments, that is, cost centres which primarily provides auxiliary services across the enterprise, to indicate expenses incurred in respect of each such service cost centre like engineering, work shop, designing, laboratory, safety, transport, computer cell, welfare and other related centres.

(b) Each identifiable service cost centre shall be treated as a distinct cost object for measurement of the cost of services subject to the principle of materiality.

(c) Cost of service cost centre shall be the aggregate of direct and indirect cost attributable to services being rendered by such cost centre.

(d) Cost of in-house services shall include cost of materials, consumable stores, spares, manpower, equipment usage, utilities, and other resources used in such service.

(e) Cost of other resources shall include related overheads.

(f) Cost of services rendered by contractors within the facilities of the entity shall include charges payable to the contractor and cost of materials, consumable stores, spares, manpower, equipment usage, utilities, and other resources provided to the contractors for such services.

(g) Cost of services rendered by contractors at their premises shall be determined at invoice or agreed price including duties and taxes, and other expenditure directly attributable thereto net of discounts (other than cash discount), taxes and duties refundable or to be credited. This cost shall also include the cost of resources provided to the contractors.

(h) Cost of services for the purpose of inter unit transfers shall also include distribution costs incurred for such transfers.

(i) Cost of services for the purpose of inter-company transfers shall also include distribution cost incurred for such transfers and administrative overheads.

(j) Cost of services rendered to outside parties shall also include distribution cost incurred for such transfers, administrative overheads and marketing overheads.

(k) Finance costs incurred in connection with the service cost Centre shall not form part of the cost of Service Cost Centre.

(l) The cost of service cost centre shall not include imputed costs.

(m) Where the cost of service cost centre is accounted at standard cost, the price and usage variances related to the services cost Centre shall be treated as part of cost of services. Usage variances due to abnormal reasons shall be treated as part of abnormal cost.

(n) Any Subsidy or grant or incentive or any such payment received or receivable with respect to any service cost centre shall be reduced for ascertainment of the cost to which such amounts are related.

(o) The cost of production and distribution of the service shall be determined based on the normal capacity or actual capacity utilization whichever is higher and unabsorbed cost, if any, shall be treated as abnormal cost. Cost of a stand-by service shall include the committed costs of maintaining such a facility for the service.

(p) Any abnormal cost where it is material and quantifiable shall not form part of the cost of the service cost centre.

(q) Penalties, damages paid to statutory authorities or other third parties shall not form part of the cost of the service cost centre.

(r) Credits or recoveries relating to the service cost centre including charges for services rendered to outside parties, material and quantifiable, shall be reduced from the total cost of that service cost centre.

(s) Any change in the cost accounting principles applied for the measurement of the cost of Service cost centre shall be made, only if it is required by law or a change would result in a more appropriate preparation or presentation of cost statements of an enterprise.

(t) While assigning cost of services, traceability to a cost object in an economically feasible manner shall be the guiding principle.

(u) Where the cost of services rendered by a service cost centre is not directly traceable to a cost object, it shall be assigned on the most appropriate basis.

(v) The most appropriate basis of distribution of cost of a service cost centre to the cost centres consuming services is to be derived from logical parameters related to the usage of the service rendered. The parameter shall be equitable, reasonable and consistent.

15. Packing expenses.-

(a) Proper records shall be maintained separately for domestic and export packing showing the quantity and cost of various packing materials and other expenses incurred on primary or secondary packing indicating the basis of valuation.

(b) The packing material receipts shall be valued at purchase price including duties and taxes, freight inwards, insurance, and other expenditure directly attributable to procurement (net of trade discounts, rebates, taxes and duties refundable or to be credited) that can be quantified at the time of acquisition.

(c) Finance costs directly incurred in connection with the acquisition of packing material shall not form part of packing material cost.

(d) Self-manufactured packing materials shall be valued including direct material cost, direct employee cost, direct expenses, job charges, factory overheads including share of administrative overheads comprising factory management and administration and share of research and development cost incurred for development and improvement of existing process or product.

(e) Normal loss or spoilage of packing material prior to receipt in the factory shall be absorbed in the cost of balance materials net of amounts recoverable from suppliers, insurers, carriers or recoveries from disposal.

(f) The forex component of imported packing material cost shall be converted at the rate on the date of the transaction. Any subsequent change in the exchange rate till payment or otherwise shall not form part of the packing material cost.

(g) Any demurrage, detention charges or penalty levied by the transport agency or any authority shall not form part of the cost of packing materials.

(h) Any subsidy or grant or incentive or any such payment received or receivable with respect to packing material shall be reduced for ascertainment of the cost to which such amounts are related.

(i) Issue of packing materials shall be valued using appropriate assumptions on cost flow, namely, First-in-First-Out, Last-in-First-Out, weighted average rate. The method of valuation shall be followed on a consistent basis.

(j) Wherever, packing material costs include transportation costs, the determination of costs of transportation shall be in accordance with para No. 9 on determination of cost of transportation.

(k) Packing material costs shall not include imputed costs.

(l) Where packing materials are accounted at standard cost, the price variances related to such materials shall be treated as part of packing material cost and the portion of usage variances due to normal reasons shall be treated as part of packing material cost. Usage variances due to abnormal reasons shall be treated as part of abnormal cost.

(m) The normal loss arising from the issue or consumption of packing materials shall be included in the packing materials cost.

(n) Any abnormal cost where it is material and quantifiable shall be excluded from the packing material cost.

(o) The credits or recoveries in the nature of normal scrap arising from packing materials if any, shall be deducted from the total cost of packing materials to arrive at the net cost of packing materials.

(p) Packing material costs shall be directly traced to a cost object to the extent it is economically feasible.

(q) Where the packing material costs are not directly traceable to the cost object, these may be assigned on the basis of quantity consumed or similar measures like technical estimates.

(r) The packing material cost of reusable packing shall be assigned to the cost object taking into account the number of times or the period over which it is expected to be reused.

(s) Cost of primary packing materials shall form part of the cost of production.

(t) Cost of secondary packing materials shall form part of distribution overheads.

16. Interest and financing charges.-

(a) Interest and financing charges are costs incurred by an enterprise in connection with the borrowing of fund or other costs which in effect represent payment for the use of non- equity fund.

(b) Interest and financing charges incurred shall be identified for-

(i) acquisition or construction or production of qualifying assets including fixed assets; and

(ii) other finance costs for production of goods or operations or services rendered which cannot be classified as qualifying assets.

(c) Interest and financing charges directly attributable to the acquisition or construction or production of a qualifying asset shall be included in the cost of the asset.

(d) Interest and financing charges shall not include imputed costs.

(e) Subsidy or grant or incentive or amount of similar nature received or receivable with respect to Interest and Financing Charges if any, shall be reduced to ascertain the net interest and financing charges.

(f) Penal Interest for delayed payment, fines, penalties, damages and similar levies paid to statutory

authorities or other third parties shall not form part of the interest and financing charges. In case the company delays the payment of statutory dues beyond the stipulated date, interest paid for delayed payment shall not be treated as penal interest.

(g) Interest paid for or received on investment shall not form part of the other financing charges for production of goods or operations or services rendered;

(h) Assignment of interest and financing charges to the cost objects shall be based on either of the following two principles; namely:-

(1) Cause and Effect - Cause is the process or operation or activity and effect is the incurrence of cost and

(2) Benefits received - to be apportioned to the various cost objects in proportion to the benefits received by them.

17. Any other item of cost.-

Proper records shall be maintained for any other item of cost being indispensable and considered necessary for inclusion in cost records for calculating cost of production of goods or rendering of services, cost of sales, margin in total and per unit of the goods or services under reference.

18. Capacity determination.-

(a) Capacity shall be determined in terms of units of production or equivalent machine or man hours.

(b) Installed capacity is determined based on-

(i) manufacturers' Technical specifications;

(ii) capacities of individual or interrelated production centres;

(iii) operational constraints or capacity of critical machines; or

(iv) number of shifts

(c) In case manufacturers' technical specifications are not available, the estimates by technical experts on capacity under ideal conditions shall be considered for determination of installed capacity. In case any production facility is added or discarded the installed capacity shall be reassessed from the date of such addition or discard In case the same is reassessed as per direction of the Government, It shall be in accordance with the principles laid down in the said directives. In case of improvement in the production process, the installed capacity shall be reassessed from the date of such improvement.

(d) Normal capacity shall be determined vis-a-vis installed capacity after carrying out adjustments for

(i) holidays, normal shut down days and normal idle time;

(ii) normal time lost in batch change over;

(iii) time lost due to preventive maintenance and normal break downs of equipments;

(iv) loss in efficiency due to ageing of the equipment; or

(v) number of shifts;

(e) Capacity utilization is actual production measured as a percentage of installed capacity.

19. Work-in-progress and finished stock

The method followed for determining the cost of work-in-progress and finished stock of the goods and for services under delivery or in-process shall be appropriate and shall be indicated in the cost records so as to reveal the cost element that have been taken into account in such computation. All conversion costs incurred in bringing the inventories to their present location and condition shall be taken into account while computing the cost of work-in-progress and finished stock The method adopted for determining the cost of work-in progress and finished goods shall be followed consistently.

20. Captive consumption

If the goods or services under reference are used for captive consumption, proper records shall be maintained showing the quantity and cost of each such goods or services transferred to other departments or cost centres or units of the company for self-consumption and sold to outside parties separately.

21. By-products and Joint Products

(a) Proper records shall be maintained for each item of by-product, if any, produced showing the receipt, issues and balances, both in quantity and value. The basis adopted for valuation of by-product for giving credit to the respective process shall be equitable and consistent and shall be indicated in cost records. Records showing the expenses incurred on further processing, if any, and actual sales realisation of by-product shall be maintained. The proper records shall be maintained in respect of credits or recoveries from the disposal of by-products

(b) Proper records shall be maintained the cost up to the point of separation of products or services shall be apportioned to joint products or services on reasonable and equitable basis and shall be applied consistently. The basis on which such joint costs are apportioned to different products or services arising from the process shall be indicated in the cost records. Proper records shall be maintained in respect credits or recoveries from the disposal of joint products or services.

22. Adjustment of cost variances

Where the company maintains cost records on any basis other than actual such as standard costing, the records shall indicate the procedure followed by the company in working out the cost of the goods or services under such system. The cost variances shall be shown against separate heads and analyzed into material, labour, overheads and further segregated into quantity, price and efficiency variances. The method followed for adjusting the cost variances in determining the actual cost of the goods or services shall be indicated clearly in the cost records. The reasons for the variances shall be duly explained in the cost records and statements.

23. Reconciliation of cost and financial accounts

The cost statements shall be reconciled with the financial statements for the financial year specifically indicating the expenses or incomes not considered in the cost records or statements so as to ensure accuracy and to adjust the profit of the goods or services under reference with the overall profit of the company. The variations, if any, shall be clearly indicated and explained.

24. Related party transactions

(a) Related Party means related party as defined under clause (76) of section 2 of the Companies Act, 2013 (18 of 2013).

(b) "Normal" price means price charged for comparable and similar products in the ordinary course of trade and commerce where the price charged in the sole consideration of sale and such

sale is not made to a related party. Normal price can be construed to be a price at which two unrelated and non-desperate parties would agree to a transaction and where such transaction is not clouded due to the proximity of the parties to the transaction and free from influence though the parties may have shared interest.

(c) The basis adopted to determine Normal price shall be classified as under:

- **(i)** Comparable uncontrolled price method;
- **(ii)** Resale price method;
- **(iii)** Cost plus method;
- **(iv)** Profit split method;
- **(v)** Transactional net margin method; or
- **(vi)** Any other method, to be specified.

(d) In respect of related party transactions or supplies made or services rendered by a company to a company termed "related party relationship" and vice-a-versa, records shall be maintained showing contracts entered into, agreements or understanding reached in respect of -

- **(i)** purchase and sale of raw materials, finished goods, rendering of services, process materials and rejected goods including scraps and other related materials;
- **(ii)** utilisation of plant facilities and technical know-how;
- **(iii)** supply of utilities and any other services;
- **(iv)** administrative, technical, managerial or any other consultancy services;
- **(v)** purchase and sale of capital goods including plant and machinery; and
- **(vi)** any other payment related to the production of goods or rendering of services under reference.

(e) These records shall also indicate the basis followed for arriving at the rates charged or paid for such goods or services so as to enable determination of the reasonableness of such rates in so far as they are in any way related to goods or services under reference.

25. Expenses or incentives on exports

(a) Proper records showing the expenses incurred on the export sales, if any, of the goods or services under reference shall be separately maintained so that the cost of export sales can be determined correctly. Separate cost statements shall be prepared for goods or services exported giving details of export expenses incurred or incentive earned.

(b) Proper records shall be maintained giving the details of export commitments license-wise and the fulfillment of these commitments giving the reasons for non-compliance, if any. In case, duty free imports are made, the cost statements shall reflect this fact. If the duty free imports have been made after actual production, the statement shall reflect this fact also.

26. Production Records

Quantitative records of all finished goods (packed or unpacked) or services rendered showing production, issues for sales and balances of different type of the goods or services under reference, shall be maintained. The quantitative details of production of goods or services rendered shall be maintained separately for self-produced, third party on job work, loan license basis etc.

27. Sales records

Separate details of sales shall be maintained for domestic sales at control price, domestic sales at market price, export sales under advance license, export sales under other obligations, export sales

at market price, and sales to related party or inter unit transfer. In case of services details of domestic delivery or sales at control price, domestic delivery or sales at market price, export delivery or sales under advance license, export delivery or sales under other obligations, export delivery or sales at market price, and delivery or sales to related party or inter unit transfer. Such details shall be maintained separately for each plant or unit wise or service centre wise for total as well as per unit sales realization.

28. Cost statements

(a) Cost statements (monthly, quarterly and annually) showing quantitative information in respect of each good or service under reference shall be prepared showing details of available capacity, actual production, production as per excise records, capacity utilization (in-house), stock purchased for trading, stock and other adjustments, quantity available for sale, wastage and actual sale during current financial year and previous year.

(b) Such statements shall also include details in respect of all major items of costs constituting cost of production of goods or services, cost of sales of goods or services and margin in total as well as per unit of the goods or services. The goods or services emerging from a process, which forms raw material or an input material or service for a subsequent process, shall be valued at the cost of production or cost of service up to the previous stage.

(c) Cost Statements (monthly, quarterly and annually) in respect of reconciliation of indirect taxes showing details of total clearances of goods or services, assessable value, duties or taxes paid, CENVAT or VAT or Service Tax credit utilized, duties or taxes recovered and interest or penalty paid.

(d) If the company is operating more than one plant, factory or service centre, separate cost statements as specified above shall be prepared in respect of each plant, factory or service centre. Any other statement or information considered necessary for suitable presentation of costs and profitability of goods or services produced by the company shall also be prepared.

29. Statistical Records

(a) The records regarding available machine hours or direct labour hours in different production departments and actually utilized shall be maintained for production of goods or rendering of services under reference and shortfall suitably analyzed. Suitable records for computation of idle time of machines or labour shall also be maintained and analyzed.

(b) Proper records shall be maintained to enable the company to identify the capital employed, net fixed assets and working capital separately for the production of goods or rendering of services under reference and other goods or services to the extent such elements are separately identifiable. Non identifiable items shall be allocated on a suitable and reasonable basis to different goods or services. Fresh investments on fixed assets for production of goods or rendering of services under reference that have not contributed to the production of goods or rendering of services during the relevant period or year shall be indicated in the cost records. The records shall, in addition, show assets added as replacement and those added for increasing existing capacity.

30. Records of Physical Verification

Records of physical verification may be maintained in respect of all items held in the stock such as raw materials, process materials, packing materials, consumables stores, machinery spares, chemicals, fuels, finished goods and fixed assets etc. Reasons for shortages or surplus arising out of such verifications and the method followed for adjusting the same in the cost of the goods or services shall be indicated in the records.

FAQ-1

19/03/2015

Frequently Asked Questions on
Maintenance of Cost Accounting Records and
Cost Audit under Companies Act, 2013

1.1 Which Rules govern maintenance of cost accounting records and cost audit as per Section 148 of the Companies Act, 2013?

The Central Government issued Companies (Cost Records and Audit) Rules, 2014 on June 30, 2014. Subsequently, it issued Companies (Cost Records and Audit) Amendment Rules, 2014 on December 31, 2014. The Amendment Rules has introduced certain changes to the original Rules issued on June 30, 2014. The Companies (Cost Records and Audit) Rules, 2014 read with the Amendment Rules 2014 are now applicable and governs the maintenance of cost accounting records and cost audit as per Section 148 of the Companies Act, 2013.

1.2 What is the applicability of the Companies (Cost Records and Audit) Rules, 2014 and what is the date on which it becomes effective and applicable?

(a) The Rules have classified sectors/industries under Regulated and Non-Regulated sectors. The sectors/industries covered under Table A of the Rules are under the Regulated Sector and sectors/industries covered under Table B are under the Non-Regulated Sector.

(b) Every company, including foreign companies defined in clause (42) of section 2 of the Act, engaged in the production of the goods or providing services, specified in Tables A and B, having an overall turnover from all its products and services of rupees thirty five crore or more during the immediately preceding financial year, shall be required to maintain cost accounting records.

However, foreign companies having only liaison office in India and engaged in production, import and supply or trading of medical devices listed in Sl. 33 of Table B are exempted. Further, companies which are classified as a micro enterprise or a small enterprise including as per the turnover criteria under sub-section (9) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006) are also excluded from the purview of the Rules.

(c) The Rules are effective from April 1, 2014 in respect of certain class of companies and for the others it is effective from April 1, 2015 as detailed below:

Rules Applicable from April 1, 2014 – Regulated Sectors

Sl.	Industry /Sector/ Product/Service	CETA Heading
1.	Telecommunication services made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature (other than broadcasting services) and regulated by the Telecom Regulatory Authority of India under the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);	Not applicable

2.	Generation, transmission, distribution and supply of electricity regulated by the relevant regulatory body or authority under the Electricity Act, 2003 (36 of 2003), other than for captive generation (referred to in the Electricity Rules, 2005);	.....
3.	Petroleum products regulated by the Petroleum and Natural Gas Regulatory Board under the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006);	2709 to 2715;
4.	Drugs and pharmaceuticals	2901 to 2942; 3001 to 3006.
5.	Fertilizers;	3102 to 3105.
6.	Sugar and industrial alcohol;	1701; 1703; 2207

Rules Applicable from April 1, 2014 – Non-Regulated Sectors

Sl.	Industry /Sector/ Product/Service	CETA Heading
1.	Machinery and mechanical appliances used in defence, space and atomic energy sectors excluding any ancillary item or items; Explanation. – For the purposes of this sub-clause, any company which is engaged in any item or items supplied exclusively for use under this clause, shall be deemed to be covered under these rules.	8401 to 8402; 8801 to 8805; 8901 to 8908
2.	Turbo jets and turbo propellers;	8411
3.	Arms and ammunitions;	3601 to 3603; 9301 to 9306.
4.	Propellant powders; prepared explosives (other than propellant powders); safety fuses; detonating fuses; percussion or detonating caps; igniters; electric detonators;	3601 to 3603
5.	Radar apparatus, radio navigational aid apparatus and radio remote control apparatus;	8526
6.	Tanks and other armoured fighting vehicles, motorised, whether or not fitted with weapons and parts of such vehicles, that are funded (investment made in the company) to the extent of ninety percent or more by the Government or Government agencies;	8710
7.	Port services of stevedoring, pilotage, hauling, mooring, re-mooring, hooking, measuring, loading and unloading services rendered by a Port in relation to a vessel or goods regulated by the Tariff Authority for Major Ports under section 111 of the Major Port Trusts Act, 1963 (38 of 1963);	Not applicable.
8.	Aeronautical services of air traffic management, aircraft operations, ground safety services, ground handling, cargo facilities and supplying fuel rendered by airports and regulated by the Airports Economic Regulatory Authority under the Airports Economic Regulatory Authority of India Act, 2008 (27 of 2008);	Not applicable.
9.	Steel;	7201 to 7229; 7301 to 7326
10.	Roads and other infrastructure projects corresponding to para No.(1) (a) as specified in Schedule VI of the Companies Act, 2013;	Not applicable.

Sl.	Industry /Sector/ Product/Service	CETA Heading
11.	Rubber and allied products being regulated by the Rubber Board constituted under the Rubber Act, 1947 (XXIV of 1947)	4001 to 4017
12.	Railway or tramway locomotives, rolling stock, railway or tramway fixtures and fittings, mechanical (including electro mechanical) traffic signalling equipment's of all kind;	8601 to 8608.
13.	Cement;	2523; 6811 to 6812
14.	Ores and Mineral Products;	2502 to 2522; 2524 to 2526; 2528 to 2530; 2601 to 2617
15.	Mineral fuels (other than Petroleum), mineral oils etc.;	2701 to 2708
16.	Base metals;	7401 to 7403; 7405 to 7413; 7419; 7501 to 7508; 7601 to 7614; 7801 to 7802; 7804; 7806; 7901 to 7905; 7907; 8001; 8003; 8007; 8101 to 8113.
17.	Inorganic chemicals, organic or inorganic compounds of precious metals, rare-earth metals of radioactive elements or isotopes, and Organic Chemicals;	2801 to 2853; 2901 to 2942; 3801 to 3807; 3402 to 3403; 3809 to 3824.
18.	Jute and Jute Products;	5303, 5310
19.	Edible Oil;	1507 to 1518
20.	Construction Industry as per para No.(5) (a) as specified in Schedule VI of the Companies Act, 2013 (18 of 2013)	Not applicable.
21.	Health services, namely functioning as or running hospitals, diagnostic centres, clinical centres or test laboratories;	Not applicable.
22.	Education services, other than such similar services falling under philanthropy or as part of social spend which do not form part of any business.	Not applicable.
23.	Production, import and supply or trading of following medical devices, namely:	
	Cardiac Stents, Drug Eluting Stents, Catheters, Intra Ocular Lenses, Bone Cements, Heart Valves, Orthopaedic Implants, Internal Prosthetic Replacements, Scalp Vein Set, Deep Brain Stimulator, Ventricular peripheral Shud, Spinal Implants, Automatic Impalpable Cardiac Deflobillator, Pacemaker (temporary and permanent), patent ductus arteriosus, atrial septal defect and ventricular septal defect closure device, Cardiac Re-synchronize Therapy, Urethra Spinicture Devices, Sling male or female, Prostate occlusion device, Urethral Stents	9018 to 9022

Rules Applicable from April 1, 2015 – Non-Regulated Sectors

Sl.	Industry /Sector/ Product/Service	CETA Heading
1.	Coffee and tea;	0901 to 0902
2	Milk powder;	0402
3.	Insecticides;	3808

4.	Plastics and Polymers;	3901 to 3914; 3916 to 3921; 3925
5.	Tyres and Tubes;	4011 to 4013
6	Paper;	4801 to 4802
7.	Textiles;	5004 to 5007; 5106 to 5113; 5205 to 5212; 5303; 5310; 5401 to 5408; 5501 to 5516
8.	Glass;	7003 to 7008, 7011, 7016
9.	Other machinery;	8403 to 8487
10.	Electricals or electronic machinery;	8501 to 8507; 8511 to 8512; 8514 to 8515; 8517; 8525 to 8536; 8538 to 8547.

1.3 The Institute of Cost Accountants of India (ICAI-CMA) had, from time to time, issued FAQs subsequent to implementation of Companies (Cost Accounting Records) Rules, 2011 and Companies (Cost Audit report) Rules, 2011. Will the clarifications and FAQs remain valid subsequent to Companies (Cost Records and Audit) Rules, 2014 coming into effect?

The FAQs and clarifications issued earlier are no longer valid. The same may be considered as withdrawn and not applicable for the Companies (Cost Records and Audit) Rules, 2014 unless specifically mentioned in these FAQs.

1.4 What constitutes the cost records under Rule 2(e)?

As per Rule 2(e) the Companies (Cost Records and Audit) Rules, 2014, "cost records" means 'books of account relating to utilization of materials, labour and other items of cost as applicable to the production of goods or provision of services as provided in section 148 of the Act and these Rules'. There cannot be any exhaustive list of cost accounting records. Any transaction - statistical, quantitative or other details - that has a bearing on the cost of the product/activity is important and form part of the cost accounting records.

Cost records are to be kept on regular basis to make it possible to "calculate per unit cost of production/operations, cost of sales and margin for each of its products for every financial year on monthly/quarterly/half-yearly/annual basis". What is required is to maintain such records and details in a structured manner on a regular basis so that accumulation is possible on a periodical basis.

1.5 The Rules state that cost records are to be maintained in Form CRA-1. However, CRA-1 does not prescribe any format but only provides principles to be followed for different cost elements. What are the role and status of Cost Accounting Standards/GACAP and its applicability vis-à-vis CRA-1?

The principles of maintenance of cost accounting records have been notified in the Rules in CRA-1. The principles are in sync with the cost accounting standards. The Rules are principle based and no formats have been prescribed for maintenance of cost accounting records like pre-2011 industry specific rules. No separate format based records maintenance has been prescribed even for the Regulated Industry and the prescription has left it open for industry to maintain cost accounting records according to its size and nature of business so long as it determines a true and fair view of the cost of production, cost of sales and margin of the products/services. The cost audit report is required to be in conformity with the "cost auditing standards" as referred to in Section 148 of the Companies Act, 2013.

It is also to be noted that the Council of the Institute of Cost Accountants of India has made it mandatory for cost accountants in practice to follow and conform to the Cost Accounting Standards issued by it and it is incumbent on the cost auditors to report any deviations from cost accounting standards.

1.6 What is the meaning of "Turnover" in relation to the Companies (Cost Records and Audit) Rules, 2014?

Sub-section 91 of Section 2 of the Companies Act, 2013 defines "turnover" as "the aggregate value of the realization of amount made from the sale, supply or distribution of goods or on account of services rendered, or both, by the company during a financial year. For the purposes of these Rules, "Turnover" means gross turnover made by the company from the sale or supply of all products or services during the financial year. It includes any turnover from job work or loan license operations but exclude duties and taxes. Export benefit received should be treated as a part of sales.

1.7 Whether overall annual Turnover/individual turnover definition will include other operational income like Job work income, scrap sale, trading turnover, export benefits, sales of services etc.?

The Turnover shall include other operational income like Job work income, scrap sale, trading turnover, export benefits, sales of services etc.

1.8 Is maintenance of cost accounting records mandatory for a multi-product company where all the products are not covered under the Rules even if the Turnover of the individual product/s that are covered under the Rules is less than rupees thirty five crores?

The Rules provide threshold limits for the company as a whole irrespective of whether all its products are as per the prescribed industry/sector provided under Table A or Table B. The Rules do not provide any minimum product specific threshold limits for maintenance of cost accounting records and consequently the company would be required to maintain cost accounting records for the products covered under Table-A or Table-B or both even if the turnover of such products is below rupees thirty five crores.

1.9 What is the difference between Cost Accounting policy and Cost Accounting system?

Cost Accounting Policy of a company state the policy adopted by the company for treatment of individual cost components in cost determination.

The Cost Accounting system of a company, on the other hand, provides a flow of the cost accounting data/information across the activity flow culminating in arriving at the cost of final product/service.

1.10 A company meets the threshold limits for both maintenance of cost records and cost audit in Year-0 (previous year) and consequently comes under the purview of the Rules in Year-1 (current year). If the turnover of company gets reduced to lower than the prescribed threshold limit in Year-1 (current year), whether Cost Records and Cost Audit will be applicable for Year-2 (next year).

Rule 3 of the Companies (Cost Records and Audit) Rules, 2014 states that a company engaged in the production of the goods or providing of services as prescribed having an overall turnover from all its products and services of rupees thirty five crore or more during the immediately preceding financial year, shall include cost records for such products or services in their books of account. Since the threshold limit for applicability of maintenance of cost accounting records is met in Year-0, the cost records are required to be maintained from Year-1. Once the maintenance of cost records becomes applicable, it would be maintained on a continuous basis in the subsequent years also. In the same line, cost audit will be applicable from Year-1 and for every year thereafter.

1.11 How to identify products covered under 4-digit CETA Code as mentioned in the Rules?

Central Excise Tariff Act Heading has been defined in Rule 2(aa) of Companies (Cost Records and Audit) Rules 2014. It states *"Central Excise Tariff Act Heading" means the heading as referred to in the Additional Notes in the First Schedule to the Central Excise Tariff Act, 1985 [5 of 1986].*

First Schedule to the Central Excise Tariff Act, 1985 states – *"heading" in respect of goods, means a description in list of tariff provisions accompanied by a four-digit number and includes all sub-headings of tariff items the first four-digits of which correspond to that number.*

1.12 The Rules prescribed in 2011 had introduced the concept of reporting under "Product Group". The present Rules are silent about Product Group. What is the requirement of preparation of cost statements of products/services so far as maintenance of cost accounting records is concerned and reporting thereof in the cost audit report?

The concept of "Product Group" has been dispensed with in the present Rules. The cost records referred to in sub-rule (1) of Rule 5 is required to be maintained on regular basis in such manner as to facilitate calculation of per unit cost of production or cost of operations, cost of sales and margin for **each of its products and activities**. Hence, it is imperative that the cost accounting records are required to be maintained and cost statements prepared for each and every product/ service/activity that the company is engaged in.

So far as reporting is concerned, Abridged Cost Statement for every product identified with the CETA Code is required to be provided. For activities/services for which CETA Code is not applicable, the Abridged Cost Statement shall be for each service/activity.

1.13 Whether separate Form CRA-2 is required to be filed by a company having two or more different types of products covered under cost audit?

CRA-2 Form (intimation for appointment of cost auditor to Central Government) has replaced the earlier Form 23C (application seeking approval for appointment of cost auditor). A single Form CRA-2 is required to be filed providing details of the sectors/industries covered under cost audit and details of cost auditor. For Companies appointing multiple cost auditors, only one single Form CRA-2 is required to be filed. Provision has been made in the Form to accommodate details of multiple cost auditors.

1.14 The Tables listing the industry/sector/product/service in the Rules have described the same by way of description as well as CETA Heading, wherever applicable. For certain sectors, the coverage under the CETA Heading are apparently not in line with the description of the sector. How to determine the coverage in such cases?

The description and the CETA Heading have to be read harmoniously and construed to be supplementing each other. The CETA Heading has been provided in the amended Rules in addition to what was provided in the original Rules issued in June 2014. The CETA Codes are inclusive and all products covered under the codes are covered irrespective of the description.

For example, in case of Petroleum Industry, the description states "Petroleum products regulated by the Petroleum and Natural Gas Regulatory Board under the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006)" and the CETA Headings are 2709 to 2715. Hence, all products covered under CETA Headings 2709 to 2715 are included as well as activities like storage, transportation, distribution of Crude Oil or Gas etc. and any other activity that is defined under the Petroleum and Natural Gas Regulatory Board Act, 2006 and regulated by the PNGRB are covered.

Similarly, Rubber and allied products would include all rubber products as specified under CETA Codes 4001 to 4017 and will not be restricted only to such rubber products regulated by the Rubber Board.

Companies engaged in manufacturing Machinery and mechanical appliances falling under CETA Codes 8401 to 8402; 8801 to 8805; 8901 to 8908 are similarly covered irrespective of its ultimate customer/consumer, subject to the company meeting the threshold limits prescribed and it is not necessary that the products have to be exclusively used in defence, space and atomic energy sectors.

1.15 What is meant by Telecommunication Services and what is its coverage?

The Companies (Cost Records and Audit) Rules, 2014 has covered "*Telecommunication services made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature (other than broadcasting services) and regulated by the Telecom Regulatory Authority of India under the Telecom Regulatory Authority of India Act, 1997 (24 of 1997)". The Telecom Regulatory Authority of India Act, 1997 defines "telecommunication service" as "service of any description (including electronic mail, voice mail, data services, audio text service, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electro-magnetic means but shall not include broadcasting services*".

Subsequently, the Central Government has included broadcasting services within the ambit of telecommunication services by notifying "*broadcasting services and cable services to be telecommunication service". [Notification No. 39 issued by Ministry of Communication and Information Technology dated 9 January 2004, S.O. No. 44(E) issued by TRAI, vide F. No. 13-1/2004]*.

In view of the above, Telecommunication Services made available to users and regulated by the Telecom Regulatory Authority of India under the Telecom Regulatory Authority of India Act, 1997 would include all such services being regulated by TRAI including broadcasting services.

1.16 What is the coverage of "Roads and other infrastructure projects" under Item 10 of Table B of the Rules?

"Roads and other infrastructure projects" has been defined to be corresponding to para No.(1)(a) as specified in Schedule VI of the Companies Act, 2013. Sub-clause (a) to Para (1) of Schedule VI of the Companies Act, 2013 covers "Roads, national highways, state highways, major district roads, other district roads and village roads, including toll roads, bridges, highways, road transport providers and other road-related services". Hence, every activity including construction and maintenance of the above projects are covered under the Rules.

1.17 What is the coverage of Construction Industry under Item 21 of Table B of the Rules?

Construction Industry has been defined to be corresponding to para No. (5)(a) as specified in Schedule VI of the Companies Act, 2013. Para (5) of Schedule VI of the Companies Act, 2013 pertains to "Industrial, commercial and social development and maintenance" and covers "real estate development, including an industrial park or special economic zone" as per sub-clause (a). Hence, every construction activity in relation to the above are covered under the Rules.

1.18 What is the coverage of Aeronautical Services?

Clause 3(B)(8) of the Companies (Cost Records and Audit) Rules, 2014 covers under the ambit of the Rules "*Aeronautical services of air traffic management, aircraft operations, ground safety services, ground handling, cargo facilities and supplying fuel rendered by airports and regulated by the Airports Economic Regulatory Authority under the Airports Economic Regulatory Authority of India Act, 2008 (27 of 2008)*".

The Airports Economic Regulatory Authority of India Act, 2008 has defined "aeronautical services" as follows:

(i) For navigation, surveillance, and supportive communication thereto for air traffic management;

(ii) For the landing, housing or parking of an aircraft or any other ground facility offered in connection with aircraft operations at an airport;

(iii) For ground safety services at an airport;

(iv) For ground handling services relating to aircraft, passengers and cargo at an airport;

(v) For the cargo facility at an airport;

(vi) For supplying fuel to the aircraft at an airport;

The Rule has covered all the above services under the ambit of maintenance of cost accounting records and cost audit subject to threshold limits.

However, all airports and aircraft operations belonging to or subject to the control of the Armed Forces or paramilitary Forces of the Union are excluded from the scope of these Rules.

1.19 Whether maintenance of cost accounting records and cost audit thereof, subject to threshold limits prescribed, is applicable to products which are for 100% captive consumption?

The Companies (Cost Records and Audit) Rules, 2014 has specified different products and services for which maintenance of cost accounting records and cost audit thereof, subject to threshold limits prescribed, is mandatory.

In case a product is manufactured and 100% captively consumed for production of some other product which is also covered under these Rules and is subject to cost audit, then the cost of such captively consumed product would form part of the final product which is also under cost audit and as such a separate cost audit report for the captively consumed product will not be necessary.

However, if the product is partly for captive consumption and partly sold, or if the product is 100% captively consumed for production of some other product which is not covered under these Rules, then cost audit would be applicable for such captively consumed product(s).

1.20 What would be the treatment of cost consumption of electricity from a captive generating plant and applicability of cost audit to such captive generating plants?

Rule 3(A)(2) dealing with generation, transmission, distribution and supply of electricity has excluded captive generation as defined in the Electricity Rules, 2005. It may be noted that in case of a company whose product(s)/service(s) are covered under the Rules and it consumes electricity from the captive generating plant, determination of cost of generation, transmission, distribution and supply of electricity as per CRA-1 would be mandatory since the cost of consumption of electricity has to be at cost. Hence, maintenance of cost records for generation, transmission, distribution and supply of electricity would be applicable. However, cost audit will not be applicable to such captive plants, provided the entire generation is consumed captively and no portion is sold outside.

1.21 A Company is engaged in both Regulated and Non-Regulated sectors and all its products are not covered under the Rules. How to determine applicability of cost audit for the products covered under the Regulated and Non-Regulated sectors since different threshold limits have been prescribed under Rule 4?

Rule 4 states that cost audit would be applicable for products under:

(a) Table A if the overall turnover of the company is at least ₹ 50 crore and

(b) Table B if the overall turnover of the company is ₹ 100 crore.

Hence, the coverage of cost audit for a company where all its products are covered under Table A or Table B or a combination of the two would be guided by these threshold limits.

In case of a multi-product company where all its products are not covered under Table A or Table B or a combination of both, then the following would apply:

(a) If the overall turnover of the company is more than ₹ 50 crore but less than ₹100 crore, then only products covered under Table-A will be covered under cost audit provided the sum total of all the products of the company covered under Table A and Table B is more than ₹25 crore.

(b) If the overall turnover of the company is more than ₹100 crore, then:

  (i) products under both Table A and Table B will be covered under cost audit provided the sum total of all the products of the company covered under Table A and Table B is more than ₹ 35 crore

  (ii) only products of Table A will be covered if the sum total of all the products of the company covered under Table A and Table B is more than ₹ 25 crore but less than ₹ 35 crore.

Explanation: Rule 4 has defined threshold limits for Table A and Table B separately but the aggregate turnover of the individual product or products or service or services has been defined to be all products for which cost records are required to be maintained under rule 3.

1.22 A company does job work for others. The raw materials are supplied to the company by the principal and the job worker gets conversion charges only. The Job Worker company pays the excise duty which is reimbursed by the principal. Will the job worker be covered under the Companies (Cost Records and Audit) Rules, 2014?

The Rules are applicable to a company. If the products of the Job Worker is listed under Table A or Table B of the Rules and the Job Worker company meets the threshold limits as prescribed, then the job worker company will be required to maintain cost accounting records. If the threshold criteria of the cost audit as prescribed are met, the company would be covered under cost audit also. Payment of excise duty by the Job Worker and in turn getting reimbursement for it is immaterial for application of the Rules.

1.23 Whether companies registered under Section 8 of the Companies Act, 2013 (corresponding to Section 25 of the Companies Act, 1956) and One Person Company (OPC) introduced in Companies Act, 2013 covered under the Rules?

The Companies (Cost Records and Audit) Rules, 2014 are applicable to every company registered under the Companies Act, 2013 which are engaged in production of goods or providing of services listed in Table-A or Table-B of Rule 3. Different threshold limits have been prescribed in the Rules for applicability of maintenance of cost accounting records and coverage under cost audit. Exemption has been granted only to companies which are classified as a micro enterprise or a small enterprise including as per the turnover criteria under sub-section (9) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006) and foreign companies having only liaison offices engaged in Production, import and supply or trading of medical devices specified under Item 33 of Table-B of Rule 3. Any other legal entity registered as a company that meets the conditions stated in Rule 3 and Rule 4 are covered.

1.24 The manufacturing process of a company generates Metal Scrap during production of its main products which may or may not be covered under cost audit. Such scrap is sold in the market after the same is cleared under CETA Codes that are covered in the Rules. Will the company be covered under cost audit for generation of scrap?

Generation of scrap is not a production or processing or manufacturing but is incidental to manufacture of its main products. The Rules are applicable to production of goods or providing of services. CETA Codes have been inducted in the Rules for proper identification of Products that are manufactured. The act of payment of Excise Duty is immaterial in the context of application of the Rules. The generation of scrap and its consequent sale in the market cannot be construed to be covered under the Rules.

1.25 Whether Value Addition and Distribution of Earnings [Part D, Para 3] is to be computed based on Cost record data or audited financial data?

Value Addition statement is to be computed based on audited financial accounts.

1.26 Whether Financial Position and Ratio Analysis [Part D, Para 4] is to be computed based on Cost record data or audited financial data?

Financial Position and Ratio Analysis is to be computed based on audited financial accounts. This reporting Para has been aligned with the nomenclature of Schedule III of the Companies Act, 2013.

1.27 What is the procedure for appointment of cost auditor under the Companies Act, 2013?

The cost auditor is to be appointed by the Board of Directors on the recommendation of the Audit Committee, where the company is required to have an Audit Committee. The cost auditor proposed to be appointed is required to give a letter of consent to the Board of Directors. The company shall inform the cost auditor concerned of his or its appointment as such and file a notice of such appointment with the Central Government within a period of thirty days of the Board meeting in which such appointment is made or within a period of one hundred and eighty days of the commencement of the financial year, whichever is earlier, through electronic mode, in **form CRA-2**, along with the fee as specified in Companies (Registration Offices and Fees) Rules, 2014.

Any casual vacancy in the office of a cost auditor, whether due to resignation, death or removal, shall be filled by the Board of Directors within thirty days of occurrence of such vacancy and the company shall inform the Central Government in Form CRA-2 within thirty days of such appointment of cost auditor.

1.28 Who can be appointed as a cost auditor?

Only a Cost Accountant, as defined under section 2(28) of the Companies Act, 2013, can be appointed as a cost auditor.

Clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 defines "Cost Accountant". It means a Cost Accountant who holds a valid certificate of practice under sub-section (1) of section 6 of the Cost and Works Accountants Act, 1959 and is in whole-time practice. Cost Accountant includes a Firm of Cost Accountants and a LLP of cost accountants.

1.29 What are the eligibility criteria for appointment as a cost auditor?

Eligibility Criteria under Section 141 of the Companies Act, 2013 read with Rule 10 of the Companies (Audit and Auditors) Rules, 2014 and Section 148 of the Companies Act, 2013. The following persons are not eligible for appointment as a cost auditor:

(a) A body corporate. However, a Limited Liability partnership registered under the Limited Liability Partnership Act, 2008 can be appointed. *[Section 141(3)(a)]*.

(b) An officer or employee of the company. *[Section 141(3)(b)]*.

(c) A person who is a partner, or who is in the employment, of an officer or employee of the company. *[Section 141(3)(c)]*.

(d) A person who, or his relative or partner is holding any security of or interest in the company or any of its subsidiary or of its holding or associate company or a subsidiary of such holding company. *[Section 141(3)(d)(i)]*.

(e) Relatives of any partner of the firm holding any security of or interest in the company of face value exceeding ₹ 1 lakh. *[Section 141(3)(d)(i) and Rule 10(1) of Companies (Audit and Auditors) Rules, 2014]*.

(f) A person who is indebted to the company or its subsidiary, or its holding or associate company or a subsidiary or such holding company, for an amount exceeding ₹ 5 lakhs. *[Section 141(3)(d)(ii) and Rule 10(2) of Companies (Audit and Auditors) Rules, 2014]*.

(g) A person who has given any guarantee or provided any security in connection with the indebtedness of any third person to the company or its subsidiary, or its holding or associate company or a subsidiary of such holding company, for an amount exceeding ₹1 lakh. *[Section 141(3)(d)(iii) and Rule 10(3) of Companies (Audit and Auditors) Rules, 2014]*.

(h) A person or a firm who, whether directly or indirectly, has business relationship with the company or its subsidiary, or its holding or associate company or subsidiary of such holding company or associate company. *[Section 141(3)(e) and Rule 10(4) of Companies (Audit and Auditors) Rules, 2014]*.

"Business Relationship" is defined in *Rule 10(4) of Companies (Audit and Auditors) Rules, 2014* and the same shall be construed as any transaction entered into for a commercial purpose, except commercial transactions which are in the nature of professional services permitted to be rendered by a cost auditor or a cost audit firm under the Act and commercial transactions which are in the ordinary course of business of the company at arm's length price - like sale of products or services to the cost auditor, as customer, in the ordinary course of business, by companies engaged in the business of telecommunications, airlines, hospitals, hotels and such other similar businesses.

(i) A person whose relative is a director or is in the employment of the company as a director or key managerial personnel of the company. *[Section 141(3)(f)]*.

(j) A person who is in the full time employment elsewhere or a person or a partner of a firm holding appointment as its auditor if such person or persons is at the date of such appointment or reappointment holding appointment as auditor of more than twenty companies. *[Section 141(3)(g)]*.

(k) A person who has been convicted by a court for an offence involving fraud and a period of ten years has not elapsed from the date of such conviction. *[Section 141(3)(h)]*.

(l) Any person whose subsidiary or associate company or any other form of entity, is engaged as on date of appointment in consulting and providing specialised services to the company and its subsidiary companies: *[Section 141(3)(i) and Section 144]*.

(a) accounting and book keeping services

(b) internal audit

(c) design and implementation of any financial information system

(d) actuarial services

(e) investment advisory services

(f) investment banking services

(g) rendering of outsourced financial services

(h) management services

1.30 The Companies Act, 2013 has introduced provision regarding rotation of auditors. Is the provision of rotation of auditors applicable to cost auditors also?

The provisions for maintenance of cost accounting records and cost audit are governed by Section 148 of the Companies Act, 2013. The provisions of Section 148 clearly states that no person appointed under Section 139 as an auditor of the company shall be appointed for conducting audit of cost records of the company. Section 148 also provides that qualifications, disqualifications, rights, duties and obligations applicable to auditors (financial) shall apply to a cost auditor appointed under this section. The eligibility, qualifications and disqualifications are provided in Section 141 of the Act and powers and duties are provided in Section 143. Section 143(14) specifically states that the provisions of Section 143 shall mutatis mutandis apply to a cost auditor appointed under Section 148. There are no other provisions governing the appointment of a cost auditor.

Section 139(3) of the Act, applicable to appointment of auditors (financial), and Rule 6 of Companies (Audit and Auditors) Rules, 2014 deals with the provision of rotation of auditors and these provisions are applicable only to appointment of auditors (financial). The Act does not provide for rotation in case of appointment of cost auditors and the same is not applicable to a cost auditor. It may, however, be noted that though there is no statutory provision for rotation of cost auditors, individual companies may do so as a part of their policy, as is the practice with Public Sector Undertakings.

1.31 What is the procedure to be followed for fixing the remuneration of a cost auditor?

Rule 14 of the Companies (Audit and Auditors) Rules, 2014 has laid down the procedure of appointment and fixing the remuneration of a cost auditor. It states as follows:

Remuneration of the Cost Auditor: *For the purpose of sub-section (3) of section 148,—*

(a) in the case of companies which are required to constitute an audit committee—

  (i) the Board shall appoint an individual, who is a cost accountant in practice, or a firm of cost accountants in practice, as cost auditor on the recommendations of the Audit committee, which shall also recommend remuneration for such cost auditor;

  (ii) the remuneration recommended by the Audit Committee under (i) shall be considered and approved by the Board of Directors and ratified subsequently by the shareholders;

(b) in the case of other companies which are not required to constitute an audit committee, the Board shall appoint an individual who is a cost accountant in practice or a firm of cost accountants in practice as cost auditor and the remuneration of such cost auditor shall be ratified by shareholders subsequently.

1.32 What are the duties of the Companies in relation to provisions of Section 148 of the Companies Act, 2013 and the Rules framed thereunder?

Every company required to get cost audit conducted under Section 148(2) of the Companies Act, 2013 shall:-

(a) Appoint a cost auditor within one hundred and eighty days of the commencement of every financial year;

(b) Inform the cost auditor concerned of his or its appointment;

(c) File a notice of such appointment with the Central Government within a period of thirty days of the Board meeting in which such appointment is made or within a period of one hundred

and eighty days of the commencement of the financial year, whichever is earlier, through electronic mode, in **form CRA-2**, along with the fee as specified in Companies (Registration Offices and Fees) Rules, 2014;

(d) Within a period of thirty days from the date of receipt of a copy of the cost audit report, furnish the Central Government with such report alongwith full information and explanation on every reservation or qualification contained therein, in **form CRA-4** along with fees specified in the Companies (Registration Offices and Fees) Rules, 2014.

1.33 Is a cost auditor required to audit and certify monthly, quarterly, half-yearly and yearly cost statements?

As per Rule 5, every company under these rules including all units and branches thereof are required, in respect of each of its financial year, to maintain cost records in form CRA-1. The cost records are required to be maintained on regular basis in such manner so as to facilitate calculation of per unit cost of production or cost of operations, cost of sales and margin for each of its products and activities for every financial year on monthly or quarterly or half-yearly or annual basis. The cost auditor is appointed to conduct audit of the cost records and make report thereon for the financial year for which he is appointed. It is not incumbent upon the cost auditor to certify monthly, quarterly, half-yearly cost statements.

1.34 CRA-3 requires Details of Material Consumed, Details of Utilities Consumed and Details of Industry Specific Operating Expenses respectively [Part B and Part C, Para 2(a), 2(b) and 2(c)]. In case of companies where number of materials or utilities or industry specific operating expenses is more than 10 each, which items should be disclosed in the respective paras?

It is to be noted that the cost audit report is required to be filed in XBRL mode and there is no provision for extending the number of items under any of the heads to accommodate more than 10 items. Hence, in cases where number of such items is more than 10 under any of the heads of material or utility or industry specific operating expenses, the 9 main items in terms of value should be provided separately and the balance items should be clubbed together under "Others" and shown as the tenth item.

1.35 Whether figures are to be provided for Rupees per Unit or Amount in Rupees in the Product and Service Profitability Statement [CRA-3, Part D, Para 1]?

Amount in Rupees are required to be provided under this Para. The number of products or services will be equal to the number of products and services covered under cost audit and for which Abridged Cost Statement has been provided.

1.36 Is there any obligation on the part of cost auditor to report offence of fraud being or has been committed in the Company by its officers or employees?

Sub-rule (7) of Rule 6 of the Companies (Cost Records and Audit) Rules 2014 states that "*the provisions of sub-section (12) of section 143 of the Act and the relevant rules made thereunder shall apply mutatis mutandis to a cost auditor during performance of his functions under section 148 of the Act and these rules*".

As per sub-section (12) of section 143 of the Companies Act 2013, extract of which is given above, it is obligatory on the part of cost auditor to report offence of fraud which is being or has been committed in the company by its officers or employees, to the Central Government as per the prescribed procedure under the Rules.

As per the proviso to above sub-section, it has been stated that in case of a fraud involving lesser than the specified amount, the auditor shall report the matter to the audit committee constituted under section 177 or to the Board in other cases within such time and in such manner as may be prescribed.

FAQ-2

08/07/2015

Frequently Asked Questions on Maintenance of Cost Accounting Records and Cost Audit under Companies Act, 2013

2.1 What types of Educational Services are covered under the Companies (Cost Records and Audit) Rules 2014?

The Companies (Cost Records and Audit) Rules 2014 covers **"Education services, other than such similar services falling under philanthropy or as part of social spend which do not form part of any business".**

Any company imparting training or education by means of any mode is covered under Education Services. However, auxiliary services provided by companies, as a separate independent entity, to educational institutions viz., (i) transportation of students, faculty and staff; (ii) catering service including any mid-day meals scheme; (iii) security or cleaning or house-keeping services in such educational institution; (iv) services relating to admission to such institution or conduct of examination are not included under Education Services.

In case the educational institution covered under the Rules is providing the above auxiliary services as a part of their total operations, then the institution will be required to maintain records for such auxiliary services also.

2.2 What types of Health Services are covered under the Companies (Cost Records and Audit) Rules 2014?

The Companies (Cost Records and Audit) Rules 2014 covers ***"Health services, namely functioning as or running hospitals, diagnostic centres, clinical centres or test laboratories"***.

Any company engaged in providing Health services through functioning as or running hospitals, diagnostic centres, clinical centres, test laboratories, physiotherapy centres and post-operative/ treatment centres are covered within the ambit of the Companies (Cost Records and Audit) Rules 2014. Further, companies running hospitals exclusively for its own employees are excluded from the ambit of these Rules, provided however, if such hospitals are providing health services to outsiders also in addition to its own employees on chargeable basis, then such hospitals are covered within the ambit of these Rules.

It is clarified that companies engaged in running of Beauty parlours / beauty treatment are not covered under these Rules.

2.3 A company is engaged in construction of residential housing, offices, industrial units, Roads, Bridges, Marine facilities etc. having sites in India and abroad. The company also has Joint venture projects in India and abroad. Whether Companies (Cost Records and Audit) Rules 2014 would be applicable to the company?

All companies engaged in construction business either as contractors or as subcontractors, who meet with the threshold limits laid down in the Companies (Cost Records and Audit) Rules, 2014 and undertake jobs with the use of own materials [whether self-manufactured/produced or procured from outside] shall be required to maintain cost records and get cost audit conducted as per the provisions of the Companies (Cost Records and Audit) Rules, 2014.

The provisions of the Companies (Cost Records and Audit) Rules, 2014 would also apply for construction activities undertaken under BOT/BOOT mode, or the projects undertaken as EPC contractor or the projects undertaken abroad by a company incorporated in India.

The Companies (Cost Records and Audit) Rules, 2014, do not make any distinction between the Contractor and Sub-Contractor and accordingly all such companies will be included within the ambit of the Rules.

2.4 A company is engaged in manufacturing products on its own as well as purchase the same products from other companies. The outsourced products are treated as trading activity in the financial accounts. Same products are also manufactured by supply of materials to converters. What would

be treatment of such products for the purposes of maintenance of cost accounting records and cost audit?

Products manufactured by the company as well as conversion activity through third parties will be covered under the Companies (Cost Records and Audit) Rules 2014 and the company would be required to maintain cost accounting records and get cost audit conducted subject to threshold limits. The finished products bought from outside parties (treated as Trading Activity in Financial Accounts) would be reflected as "Cost of Finished Goods Purchased" in Abridged Cost Statement.

2.5 The Companies (Cost Records & Audit) Rules, 2014 provides exemption from cost audit to a company which is covered under rule 3, and whose revenue from exports, in foreign exchange, exceeds seventy five per cent of its total revenue. How to determine the percentage to total revenue in the following cases:

(i) In a company who is manufacturing Pharmaceutical products, the revenue from export of pharmaceutical products earned in foreign exchange divided by total revenue including other income etc. is 58%.

(ii) The revenue in foreign exchange earned from export of pharmaceutical products plus revenue in foreign exchange earned from rendering of research & development service divided by total revenue including other income etc.is 82%.

Cost audit is applicable for specified products/services. Rule 4(3) states *"The requirement for cost audit under these rules shall not apply to a company which is covered in rule 3, and (i) whose revenue from experts, in foreign exchange, exceeds seventy five per cent of its total revenue"*. The inclusion or coverage of a company under Rule 3 is in respect of products/services listed under Table-A and Table-B and consequently the computation of 75% is to be calculated for the specific products/ services covered under Rule 3 and not in respect of all the products/services of the company.

The total revenue and turnover of R&D Activities, not being covered under Rule 3 cannot be taken into consideration for computation of 75%.

In this connection it is also clarified that "total revenue" of a company is to be considered as the total revenue as defined in Schedule III of the Companies Act, 2013. Total Revenue as defined in Schedule III is Total Operating Revenue plus Other Incomes.

2.6 A company has units in SEZ and in non-SEZ areas. The Companies (Cost Records and Audit) Rules 2014 has exempted companies operating in special economic zones from cost audit. What would be applicability of the Companies (Cost Records and Audit) Rules 2014 on such a company in respect of maintenance of cost accounting records and cost audit?

Rule 3 of the Companies (Cost Records and Audit) Rules 2014 is specific and it has mandated maintenance of cost accounting records on all products/activities listed under Table-A and Table-B subject to threshold limits. No exemption is available to any company from maintenance of cost accounting records once it meets the threshold limits. Hence, the above company would be required to maintain cost accounting records for all its units including the one located in the special economic zone.

In view of the provisions of Rule 4(3)(ii) of the Companies (Cost Records and Audit) Rules 2014 the unit located in the special economic zone would be outside the purview of cost audit and the company would not be required to include particulars of such unit in its cost audit report. The other units of the company located outside the special economic zone would be covered under cost audit subject to the prescribed threshold limits.

2.7 A cost auditor is required to certify under Para 1(vii) of the Cost Audit Report – *"Detailed unit-wise and product/service-wise cost statements and schedules thereto in respect of the product/service under reference of the company duly audited and certified by me/us are/are not kept in the company"*. Whether product Cost Sheet prepared SKU wise/ type-wise/ size-wise/ specification-wise by the company is required to be certified by the cost auditor and kept in the company?

Rule 5(2) of the Companies (Cost Records and Audit) Rules 2014 requires that "the cost records referred to in sub-rule (1) shall be maintained on regular basis in such manner as to facilitate calculation of per unit cost of production or cost of operations, cost of sales and margin for each of its products and activities".

The Rules have identified products as per CETA heading as defined in Rule 2(aa) which states *"Central Excise Tariff Act Heading means the heading as referred to in the Additional Notes in the First Schedule to the Central Excise Tariff Act, 1985[5 of 1986]"*.

First Schedule to the Central Excise Tariff Act, 1985 states – "heading" in respect of goods, means a description in list of tariff provisions accompanied by a four-digit number and includes all sub-headings of tariff items the first four-digits of which correspond to that number.

The above definitions make it clear that maintenance of cost accounting records should conform to the CETA Heading and detailed unit-wise and product/service-wise cost statements and schedules thereto are required to be certified by the cost auditor.

2.8 In the abridged cost statement, what are Industry specific operating expenses? When should this be used?

Industry Specific operating expenses are those which are peculiar to a particular industry such as Telecommunication Industry which shows expenses such as Network Operating cost, License fee, Radio Spectrum charges, Microwave charges etc. which are peculiar to this Industry and should be disclosed separately in the cost statement. The Industry Specific operating expenses will vary from industry to industry depending upon the nature of operations. The industry specific operating expenses shall have to be identified and reported upon in the abridged cost statement.

2.9 What is installed capacity and how is this different from total available capacity? How the installed capacity is to be calculated in a multi-product company using the same machine/ facilities? Should installed capacity be the capacity at the beginning of the year or at the end of the year under audit?

The Institute of Cost Accountants of India has defined *"Installed Capacity is the maximum productive capacity, according to the manufacturer's specifications or determined through an expert study"* [CAS-2 of Cost Accounting Standards]. The Installed Capacity to be disclosed in the Quantitative Details of CRA-3 is to be considered as at the beginning of the year. Capacity enhanced during the year should be considered as the increase in Installed Capacity during the year on pro-rata basis. Available capacity is the total installed capacity after adjustment of capacity enhanced during the year and if any capacity is available by means of leasing arrangement or taking on third-party capacity for increasing the total capacity.

If the same available capacity is utilised for production of multiple products, the following different basis may be adopted to determine the available capacity in respect of each of the products:

(i) If the company has a system of allocating the total available capacity for production of multiple products, then such allocated available capacity is to be considered for the products being manufactured by utilising the same production facility.

(ii) If the production allocation is not pre-determined and changes from period to period, then the capacity utilisation is to be determined on the basis of total production of all the products taken together and the total available capacity should be considered for all the products.

2.10 Whether each and every transactions with Related Parties is to be disclosed under Para D-5 of Annexure to the Cost Audit Report?

Details of related Party Transaction are required to be provided in respect of each Related Party and each Product/Service for the year as a whole and not transaction-wise.

2.11 Revised Form CRA-2 has been made available by the Ministry of Corporate Affairs conforming to the Companies (Cost Records and Audit) Rules, 2014 on 31st December, 2014. What are the required attachments to Form CRA-2?

The Form has provided an attachment button for attachment of certified copy of the Board Resolution appointing the cost auditor. The consent letter of the cost auditor should be attached as optional attachment.

2.12 Is CRA-3 applicable for companies whose financial year commenced prior to April 1, 2014? Which Rules are applicable to companies whose financial year commenced on January 1, 2014?

The Section 148 of the Companies Act, 2013 and Companies (Cost Records and Audit) Rules, 2014 are applicable from April 1, 2014. Companies that were covered under the erstwhile Companies

(Cost Accounting Records) Rules, 2011 and met the threshold limits prescribed therein are required to get the cost audit of their companies audited for the financial year 01/01/2014 to 31/12/2014 under the 2011 Rules and submit their respective reports under Companies (Cost Audit Report) Rules, 2011.

Companies (Cost Records and Audit) Rules, 2014 is applicable to companies maintaining calendar financial year from 01/01/2015 onwards subject to the products/services being covered under Table-A or Table-B of Rule 3 and meeting the prescribed threshold limits.

2.13 The Companies (Cost Records and Audit) Rules, 2014 requires submission of a single cost audit report at company level. What is the procedure of certifying and submission of cost audit report of a company where more than one cost auditor is appointed?

In case of a company having more than one cost auditor, it would be necessary for the company to appoint/designate one cost auditor as the lead cost auditor for consolidation of the report.

The individual cost auditors appointed for specific units/products would be required to audit and provide Para numbers A-4, B-1, B-2, B-2A, B-2B, B-2C, C-1, C-2, C-2A, C-2B, C-2C (as applicable), D-1 in respect of the products/services coming under the purview of their respective audits. The individual auditors would also be required to submit to the Board of Directors the individual cost audit report as per Form of the Cost Audit Report given in CRA-3.

The lead auditor would be responsible for preparing the Para numbers A-3, D-2, D-3, D-4, D-5, D-6 and consolidate Para numbers A-4, B-1, B-2, B-2A, B-2B, B-2C, C-1, C-2, C-2A, C-2B, C-2C (as applicable), D-1 received from the individual cost auditors.

The consolidated report should contain the reports of all the individual cost auditors including the report of the Lead Cost Auditor. In case individual cost auditors have any observations or suggestions or qualifications, they would be required to mention the same under Para 2 of the cost audit report and the lead auditor would have to mention the specific observations and/or qualifications of all the individual cost auditors in the place provided for the same in the under Para A-1.

The consolidated report so prepared would be converted to XBRL and submitted to the Central Government by the Company in Form CRA-4.

2.14 The Companies (Cost Records and Audit) Rules, 2014 covers "Generation, transmission, distribution and supply of electricity" with no corresponding CETA Heading. Whether the Quantitative Information and Abridged Cost Statement in respect of Electricity are required to be reported under the Service Sector in the absence of a CETA Heading?

The reporting of electricity generation activity will be considered under "Manufacturing" and should be shown under CETA Heading 2716. Transmission and Distribution activities should be reported under the "Service Sector".

2.15 A Company is engaged in both Regulated and Non-Regulated sectors and all its products are not covered under the Rules. How to determine applicability of cost audit for the products covered under the Regulated and Non-Regulated sectors since different threshold limits have been prescribed under Rule 4?

The above issue was clarified in FAQ-1 vide FAQ 1.21. The issue is further clarified by means of the following example for ease of understanding.

	Turnover (₹ Crores) of					Applicability of	
	Table A Products	Table B Products	Table A + B Products	Other Products	Total Operating Revenue	Cost Records	Cost Audit
Case 1	5	10	15	19	34	No	No
Case 2	5	10	15	25	40	Yes	No
Case 3	10	15	25	26	51	Yes	Only Table A Product

Case 4	0	25	25	26	51	Yes	No
Case 5	20	14	34	75	109	Yes	Only Table A Product
Case 6	20	20	40	61	101	Yes	Both Tables A & B Products

2.16 What is the status of companies after the notification of Companies (Cost Records and Audit) Rules, 2014, who have not filed cost audit report and/or compliance report pertaining to any year prior to financial year commencing on or after April 1, 2014?

Companies that were covered under the Companies (Cost Accounting Records) Rules, 2011 or any of the 6 industry specific Cost Accounting Records Rules and were required to file Compliance Report and/or Cost Audit Report for and upto any financial year commencing prior to April 1, 2014 are required to comply with the erstwhile Rules and file the Compliance Report and/or Cost Audit Report in XBRL Mode for the defaulted years. For this purpose, the Costing Taxonomy 2012 will continue to be available and such reports would be required to be filed in Form A-XBRL and Form I-XBRL, as the case may be.

2.17 Many Companies have filed Form 23C as well as Form CRA-2 for 2014-15 in respect of different products and/or multiple cost auditors, if applicable. Which SRN Number has to be reported in the cost audit report while filing the same in XBRL Mode?

(a) Companies who have filed multiple Form 23C in respect of multiple cost auditors will be required to provide the SRN Numbers against each Form 23C filed.

(b) In case the company after filing individual Form 23C has also filed Form CRA-2, in such case the company will be required to provide the SRN Number of the latest CRA-2 only since the details of multiple cost auditors, if applicable for the company, would be covered under one Form CRA-2.

2.18 A company is engaged in manufacturing of multiple products. Some of the products are covered under the Companies (Cost Records and Audit) Rules, 2014 and some are not. Part-A, Para 4 of the Annexure to the Cost Audit Report (Product/Service Details for the company as a whole) requires Net Operational Revenue to be reported for each CETA Heading for both the current year and the previous year. Can the Net Operational Revenue of all the Products that are not covered under the Rules be reported in this Para as a single line item?

Part-A, Para 4 of the Annexure to the Cost Audit Report of Companies (Cost Records and Audit) Rules, 2014 require reporting of Net Operational Revenue of every CETA Heading separately comprised in the Total Operational Revenue as per Financial Accounts. Hence, the company would be required to report Net Revenue of every CETA Heading irrespective of whether the same is covered under maintenance of cost accounting records and cost audit or not. In case some of the Products are under the same CETA Heading but having different units of measurement (UOM), then Net Revenue is to be reported for separate UOMs. It may be noted that the number of quantitative details and abridged cost statements will have to be provided for each unique combination of CETA Heading and UOM of the Products which are covered under cost audit.

If the company is engaged in manufacturing of products as well as providing of services and/or trading, such services which are covered under the Companies (Cost Records and Audit) Rules, 2014 will be required to be reported separately according to the definition provided in the Rules classified under different types of services within the same class of service. It may be noted that the number of quantitative details and abridged cost statements will have to be provided for each classification of service covered under cost audit.

Other services that are not covered under the Rules and Revenue from Trading Activity may be reported under suitable heads denoting the service/activity.

The New Taxonomy has introduced a separate line item in this Para to report "Other Operating Incomes" which will form part of the Total Operating Revenue.

Paper - 11

INDIRECT TAXATION

AMENDMENTS BROUGHT IN BY THE FINANCE ACT, 2015

AMENDMENTS MADE IN INDIRECT TAX LAW

Amendments relating to Central Excise

1. Amendment to 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 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;

(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, 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.

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.

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:

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 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 assessees, 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.

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 token 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.

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 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.

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);';

(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;

(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 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 —

(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 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;".

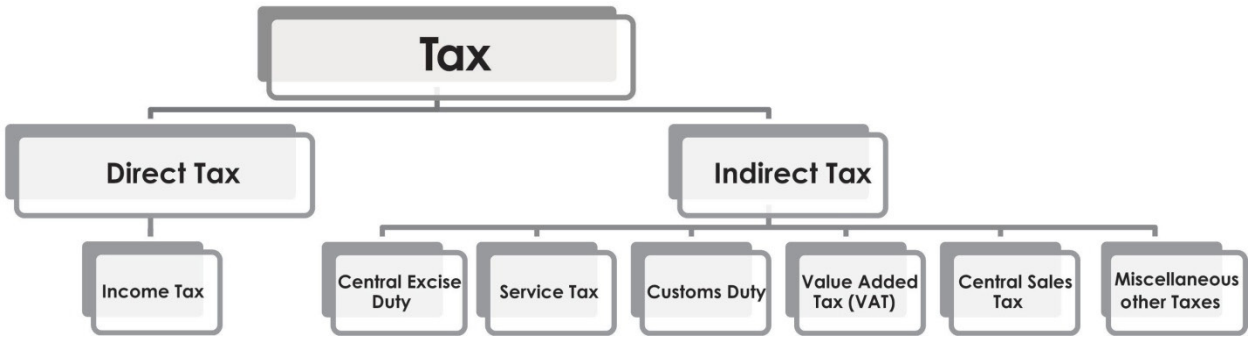
Changes are based on Study Material Edition — Reprint of Second Edition: June 2015

Study Note - 1

1st line of Point 1.1 [Basis for taxation] in Page No. 1.1 — Modified

India is a socialist, democratic and republic **country**.

Diagram under Point 1.1 [Basis for taxation] in Page No. 1.1 — Modified



Example of Point A [Direct Taxes] under Point 1.2 [Direct Taxes and Indirect Taxes] in Page No. 1.1 — Modified

A) Direct Taxes: They are imposed on a person's income, wealth, expenditure, etc. Direct Taxes charge is on person concern and burden is borne by person on whom it is imposed.

Example - Income Tax.

Point 'Taxable Event' in 'Direct Tax & Indirect Taxes' under Point 1.3 [Features of Indirect Taxes] in Page No. 1.2 — Modified

Taxable Event	Taxable Income of the Assessees.	Purchase / Sale / Manufacture of goods and provision of services.

2nd Point in 'Disadvantages of Direct taxes /Advantages of Indirect Taxes' under Point 1.3 [Features of Indirect Taxes] in Page No. 1.2 — Modified

Disadvantages of Direct taxes	Advantages of Indirect Taxes
Direct taxes are mainly on income of individuals, firms or corporate bodies, where millions of transactions are carried out in lakhs of places and keeping an eye over all such transactions is virtually impossible.	Indirect taxes are easier to collect as indirect taxes are mainly on goods/ commodities/services, for which record keeping, verification and control is relatively easy (at least in organized sector). Manufacturing activities are carried out mainly in organized sector, where records and controls are better.

4th Point in 'Disadvantages of Direct taxes /Advantages of Indirect Taxes' under Point 1.3 [Features of Indirect Taxes] in Page No. 1.3 — Modified

Disadvantages of Direct taxes	Advantages of Indirect Taxes
Collection cost of direct taxes as percentage of tax collected are higher in direct taxes compared to indirect taxes.	Collection costs of indirect taxes as percentage of tax collected are lower in indirect taxes compared to direct taxes.

6th Point in 'Disadvantages of Direct taxes /Advantages of Indirect Taxes' under Point 1.3 [Features of Indirect Taxes] in Page No. 1.3 — Modified

Disadvantages of Direct taxes	Advantages of Indirect Taxes
Government can judiciously use the direct taxes to support development in desirable areas, while discouraging in backward areas, infrastructure development etc.	Government can judiciously use the indirect taxes to support development in desirable areas, while encouraging it in backward areas also, e.g. reducing taxes on goods manufactured in tiny or small scale units; lowering taxes in backward areas etc.

3rd Point in 'Advantages of Direct taxes /Disadvantages of Indirect Taxes' under Point 1.3 [Features of Indirect Taxes] in Page No. 1.3 — Modified

Disadvantages of Direct taxes	Advantages of Indirect Taxes
Low income tax rates decrease tax revenues and tax evasion and hawala transactions.	High customs/ excise duty increases smuggling, hawala trade and mafia gangs, which is harmful in many ways. Similarly, high excise duty leads to evasion.

4th Point in 'Advantages of Direct taxes /Disadvantages of Indirect Taxes' under Point 1.3 [Features of Indirect Taxes] in Page No. 1.3 — Modified

Disadvantages of Direct taxes	Advantages of Indirect Taxes
Direct taxes do not increase the cost of modern machinery and technology.	Higher customs duty and excise duty increases cost of modern machinery and technology.

1st part under Point 1.4 [Constitutional Validity] in Page No. 1.4 — Removed

[Central Excise is a duty on excisable goods ……. Section 3(1) of the Additional Duties of Excise (Goods of Special Importance) Act, 1957]

'Sources and Authority of Taxes in India' under Point 1.5 [Administration and Relevant Procedures] in Page No. 1.4 — Modified

Powers of Central or State Government to levy tax		
Article	**Empowers**	**For**
246(1)	Central Government	Levy taxes in List I of the Seventh Schedule of the Constitution.
246(2)	Central or State Government	Levy taxes in List III of the Seventh Schedule.
246(3)	State Government	Levy taxes in List II of the Seventh Schedule of the Constitution.

Study Note - 2

Point 2.1 [Constitutional Background] in Page No. 2.1 — Fully changed

2.1 CONSTITUTIONAL BACKGROUND

In majority of cases, the general rate of excise duty has been increased from 12.36% (including education cess and secondary and higher education cess) to 12.50% (excluding education cess and secondary and higher education cess) [notification no. 01/2015-M&TP dated 01.03.2015]. The education cess which was levied on all excisable goods as a duty of excise has been fully exempted vide notification no. 14/2015 CE dated 01.03.2015 and secondary and higher education cess which was levied on all excisable goods as a duty of excise has also been fully exempted vide notification no. 15/2015 CE dated 01.03.2015.

To solve the practical problems regarding the calculation of excise duty, the general rate of 12.50% is considered here irrespective of the name and nature of the product. However, the product specific rates of excise duty are mentioned in CETA.

First three points with Example 2 under Point 2.4 [Duties Leviable] in Page No. 2.3 — Modified

- **Basic Excise Duty (BED)** is levied u/s 3(1) of Central Excise Act. The section is termed as 'charging section'. In majority of cases, the standard rate of basic excise duty has been increased from 12% to 12.50% (notification no. 01/2015-M&TP dated 01.03.2015). It should be mentioned here that the BED will vary productwise according to the rate mentioned in CETA.
- **Education Cess** which was earlier 2% of excise duty has been fully exempted w.e.f. 01.03.2015.
- **Secondary and Higher Education Cess** (S&H Education Cess) which was earlier 1% of the total duties of excise has also been fully exempted w.e.f. 01.03.2015.

Example 2:

Basic Excise Duty	12.50%
Add: Education Cess	—
Add: S & H Education Cess	—
Total effective rate of duty	12.50%

National Calamity Contingent Duty – A 'National Calamity Contingent Duty' (NCCD) has been imposed vide section 136 of Finance Act, 2001 on some products. NCCD of 1% has been imposed on mobile phones w.e.f. 1-3-2008.

In addition, cesses and duties have been imposed on some specified products.

Example 3 under point 2.5.1 [What is the Taxable Event?] in Page No. 2.4 — Changed

Example 3: Product X is produced on 1st February 2016 by X Ltd. On that date X is an excisable commodity with a tariff rate of **12.5%.** Subsequently on 31st March, 2016 Product X was removed from the factory. Hence, the taxable event is on 1st February 2016 and not on 31st March 2016.

Exception (i) in Point (1) [Power to Notify Exemptions in Public Interest] under Point 2.5.6 [Exemptions from Levy of Excise Duty] in Page No. 2.6 — Modified

Exceptions — However, unless specifically provided in such notification, no exemption shall apply to excisable goods, which are produced or manufactured:

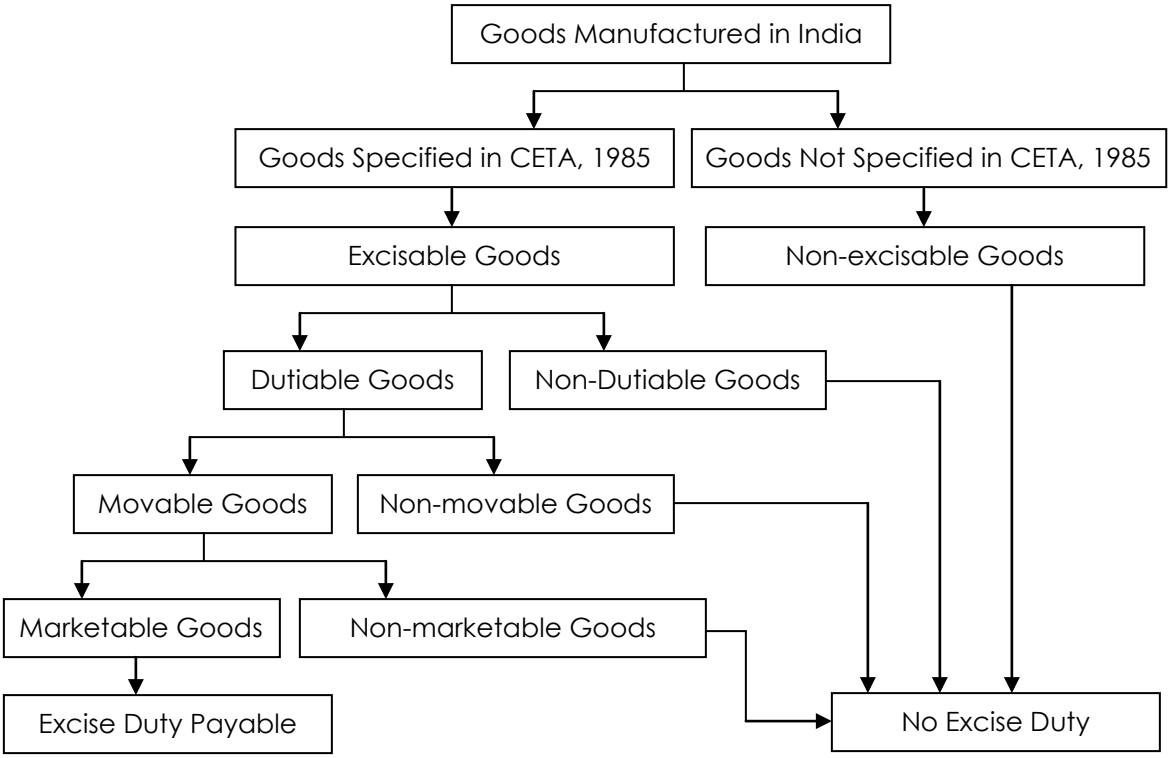
(i) in a Free Trade Zone **or a Special Economic Zone** and brought to any other place in India; or

(ii) by a hundred per cent Export Oriented Undertaking and brought to any place in India.

'Note' part under Point 2.6.3 [Excisable Goods] in Page No. 2.10 — Removed

[**Note:** The rate of duty of 1% ..... heading 8517]

Diagram under Point 2.6.4 [The goods must be Manufactured or Produced in India] in Page No. 2.11 — Modified



Example 8 under point 2.8 [Manufacture] in Page No. 2.13 — Modified

Example 8: X Ltd is engaged in the activity of conversion of gray cloth into embroidered dyed cloth. In the course of the various activities it gets the sizing done by S and dyeing by D. The cost of gray cloth is ₹ 50 per meter. S charges ₹ 10 per meter for sizing and D charges ₹ 30 per meter. The finished product is sold by X Ltd for ₹ 100 per meter. In the context of Central Excise Act, 1944, is there any manufacture involved? Who will be regarded as the manufacturer in this situation?

Answer:

As per the decided case law of the Supreme Court in Ujagar Paints v Union of India (1998), the end product should be one which is distinctive in name, usage and commercial character. In the given case, consequent to the value addition made to the grey cloth which is the input, the end product which emerges is commercially different with its own price structure, customs and commercial incidents. Hence, there is manufacture within the meaning of section 2(f) of the Central Excise Act, 1944.

It is not necessary that manufacturer should be the owner of the end product. Hence, in the given case, S and D will be regarded as manufacturers.

Diagram under Point 2.8.2 [Assembly or Repair or Production- Whether the same is Manufacture] in Page No. 2.15 — Removed

4th line in point (i) [Duty based on production capacity] under Point 2.11 [Valuation of Goods] in Page No. 2.22 — Modified

i. **Duty based on production capacity -** Some products (e.g. pan masala, rolled steel products) are perceived to be prone to duty evasion. In case of such products, Central Government, by notification, can issue notification specifying that duty on such notified products will be levied and collected on the basis of production capacity of the factory [section 3A(1) of **Central Excise Act** inserted w.e.f. 10th May 2008]. When such notification is issued, annual capacity will be determined by Assistant Commissioner [section 3A(2)(a) of CEA]. Factors relevant to determine production capacity will be specified by rules issued by Central Government [section 3A(2)(b)(i)].

Example 26 under point 2.11 [Valuation of Goods] in Page No. 2.23 — Modified

Example 26: The price of readymade garment is ₹ 500 per unit. Suppose the government fixes a rate of 60% for computing tariff value. In this case, the tariff value is 60% of ₹ 500 i.e. ₹ 300. If the duty rate is **12.5%,** the excise duty payable will be ₹ **300** × 12.5% **= ₹ 37.50** per unit

Example 27 under point 2.11 [Valuation of Goods] in Page No. 2.23 — Modified

Example 27: The MRP of an Air-condition Machine is ₹ 40,000 and the abatement per cent is 40%. The Excise duty is the BED rate is **12.5%** will be as under:

Maximum Retail Price	= ₹ 40,000
Less: abatement (40%)	= ₹ 16,000
Assessable Value	= ₹ 24,000
Central Excise Duty **(12.5%) = ₹ 24,000 × 12.5/100**	**= ₹ 3,000**
Total Excise Duty Payable	= ₹ 3,000

[Rest of the examples/ illustrations to be solved after considering Central Excise Duty rate @12.5% in the same manner]

Point (i) of Example 28 under point 2.11 [Valuation of Goods] in Page No. 2.23 — Modified

Example 28: (i) The rate of compounded levy in case of cold rolled Stainless Steel patties/pattas, the manufacturer has to pay ₹ **30,000** per cold rolling machine per month plus cess as applicable.

Point 2.12.4 [Service Tax on Job Work] in Page No. 2.37 — Removed

[Job work falls ..... avail Cenvat credit]

Point 2.18.4 [Provisions Relating to Non Registration] in Page No. 2.62 — Modified

2.18.4 Provisions Relating to Non Registration

As per Rule 25 of the Central Excise Rules, 2002, where registration under Central Excise is required for a manufacturer but not registered then, all such goods shall be liable to confiscation. Such manufacturer is supposed to face the punishment and penalty. **This provision is also applicable to an importer who issues an invoice on which Cenvat credit can be taken. (w.e.f. 01.03.15)**

3rd Para in Point 2.18.5 [Daily Stock Account (DSA)] in Page No. 2.63 — Modified

The first page and the last page of the DSA shall be duly authenticated by the manufacturer or his authorized person. The DSA shall be preserved for five years immediately after the financial year to which such records pertain.

The records under this rule may be preserved in electronic form and every page of the record so preserved shall be authenticated by means of a digital signature. The Board may, by notification, specify the conditions, safeguards and procedure to be followed by an assessee preserving digitally signed records.

Penalty upto the amount of duty payable can be imposed and the offending goods can be confiscated if DSA is not maintained by the manufacturer. [Rule 25(1)(b) of Central Excise Rules]

1st line and 5th line of Point (i) under Point 2.19.6 [Return of Duty paid Goods for Repairs etc. – Credit of Duty] in Page No. 2.65 — Modified

i. As per Rule 16 of the Central Excise Rules, **2002** where any duty paid goods (whether originally manufactured in the same or another factory) are subsequently returned to the factory for being remade, refined, reconditioned or for any other reason, the assessee shall record the particulars of such returned goods in his record and take Cenvat Credit of the duty paid on such goods as if they are inputs and shall utilize this credit according to the Cenvat Credit Rules, **2004**. But the goods received must be eventually returned.

2nd line of Point 2.19.10 [Action in Case of Default] in Page No. 2.67 — Modified

As per Rules 8(3) **of Central Excise Rules, 2002**, if the assessee fails to pay the amount of duty by the due date, he shall be liable to pay the outstanding amount along with interest at the rate **(at present, 18%)** specified by the Central Government vide notification under section 11AA of the Act on the outstanding amount, for the period starting with the first day after due date till the date of actual payment of the outstanding amount.

As per Rule 8(3A), if the assessee fails to pay the duty declared as payable by him in the return within a period of 1 month from the due date, then the assessee is liable to pay the penalty at the rate of 1% on such amount of the duty not paid, for each month or part thereof calculated from the due date, for the period during which such failure continues.

Point (iv) under Point 2.20.5 [Export Procedures] in Page No. 2.71 — Modified

iv. Export to **Nepal (except Bhutan)** is like export to any other country.

Point (ii) [Frequency of Audit] under Point 2.21 [Excise Audit] in Page No. 2.73 — Modified

Frequency of Audit: The frequency of audit is based on annual excise duty payment

Excise duty	**Frequency**	**Duration of audit**
< 50 lakhs	10% of units	5 working days
> 50 lakhs ≤ 100 lakhs	Once in 5 years	7 working days
> 100 lakhs ≤ 300 lakhs	Once in 2 years	7 working days
> 300 lakhs	Yearly	7 working days

About 25% of EOUs will be audited every year.

1st line of Point [Submission of Records and Books] under Point 2.21 [Excise Audit] in Page No. 2.76 — Modified

As per Rule 22(3) of the Central Excise Rules, 2002, every assessee, and **an importer who issues an invoice on which Cenvat credit can be taken and first stage and second stage dealer**, on demand make available to the officer empowered by the Principal Commissioner or Commissioner or the audit

party deputed by the Principal Commissioner or Commissioner or Comptroller and Auditor General of India, or a Cost Accountant or Chartered Accountant nominated under section 14A or section 14AA of the Act, ...

Point (ix) [DEPB Scheme] under Point 2.23.1 [Export Benefits and Incentives] in Page No. 2.78 — Modified

(ix) DEPB Scheme: Duty entitlement pass book scheme patterned on the credit-debit system of Central Excise CENVAT scheme was scheduled to phase out by March 31, 2002 but is being continued till VAT comes into force. **This scheme has been abolished w.e.f. 01.10.2011 as it was said to be non- complaint of WTO requirement.**

5th point under Point 2.25.1 [Demands of Excise Duty] in Page No. 2.91 — Modified

- In case of delay in payment of duty, interest @**18%** is payable u/s **11AA(1)** of CEA.

Section 5 under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.95 — Modified

5(1)	Government can provide for remission of duty of excise payable on excisable goods, which due to any natural cause, are found to be deficient in quantity.

Section 6 under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.95 — Modified

6	Registration is required to be obtained by any prescribed person who is engaged in (a) the production / manufacture or any process of production/manufacture of any goods specified in First or Second Schedule to Central Excise Tariff Act and (b) wholesale purchase or sale (whether on his own account or as broker or commission agent) or storage of any specified goods included in First or Second Schedule to Central Excise Tariff Act – Rule 9 makes provisions in respect of registration.

Section 9(1) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.95 — Modified

9(1)	Following are offences punishable with imprisonment and fine - (a) Contravening provisions of restrictions of possession of goods in excess of prescribed quantity as prescribed under section 8. (b) Evading payment of duty payable under CEA. (c) Removing excisable goods or concerning himself with such removal, in contravention of provisions of Central Excise Act and Rules. (d) Acquiring or in any way concerning himself with transporting, depositing, concealing, selling, purchasing or otherwise dealing with excisable goods where he knows or has reason to believe that the goods are liable to confiscation under Central Excise Act or Rules. (e) Contravening any provision of Central Excise Act or rules in relation to Cenvat credit. (f) Failure to supply information or knowingly supplying false information. (g) Attempting to commit or abetting commission of an offence regarding evasion of duty or transit of goods or restriction on storage of goods or non-registration of a unit. Punishment imposable in the case of an offence relating to any excisable goods, the duty leviable thereon under this Act exceeds fifty lakh of rupees, with imprisonment for a term which may extend to seven years and with fine : Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court such imprisonment shall not be for a term of less than six months.

Section 9A under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.96 — Modified

9(1A)	Section 9A is being amended to make an offence cognizable and non-bailable when the duty liability exceeds ₹ 50 lakh and punishable under clause (b) or clause (bbbb) of Sub-section (1) of Section 9.

Section 9C under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.96 — Modified

9C & 9C(1)	Mens rea (culpable mental state) shall be presumed by Court. Accused can prove that he had no culpable mental state.

Section 11 under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.96 — Modified

11(1)	Excise authorities can recover excise duty by any of the following means – • Adjusting against money payable to the person (e.g. if refund is due to him) • By attachment and sale of excisable goods belonging to the assessee. • As Arrears of Land Revenue, by issuing certificate to District Collector of Revenue, who is empowered to recover the amount as arrears of land revenue.

Section 11A(1) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.96 — Modified

11A(1)(a)	Central Excise Officer can, within one year from relevant date, serve show cause notice on person chargeable to duty, if – (a) duty of excise has not been levied or paid or (b) short levied or paid or (c) erroneously refunded. The show cause notice should ask the person why he should not pay the amount specified in the notice.

Proviso to Section 11A(1) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.96 — Modified

11A(4)	In case of fraud, collusion, wilful mis-statement and suppression of facts, or contravention of any provision of Central Excise Act or rules with intent to evade payment of duty, demand for duty can be raised within 5 years.

Section 11A(1A) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.96 — Removed

Section 11A(2) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.96 — Modified

11A(2)	The person who has paid the duty under clause (*b*) of sub-section (1), shall inform the Central Excise Officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause (*a*) of that sub-section in respect of the duty so paid or any penalty leviable under.

Section 11A(2B) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.96 — Removed

Section 11A(3)(ii) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.97 — Modified

Explanation 1(b) to 11A	The relevant date will be one of the following : (i) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid, and no periodical return as required by the provisions of this Act has been filed, the last date on which such return is required to be filed under this Act and the rules made thereunder; (ii) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid and the return has been filed, the date on which such return has been filed; (iii) in any other case, the date on which duty of excise is required to be paid under this Act or the rules made thereunder; (iv) in a case where duty of excise is provisionally assessed under this Act or the rules made thereunder, the date of adjustment of duty after the final assessment thereof; (v) in the case of excisable goods on which duty of excise has been erroneously refunded, the date of such refund; (vi) in the case where only interest is to be recovered, the date of payment of duty to which such interest relates.

Section 11A(7A) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.97 — Modified

11A(7A)	Service of a statement containing details of duty not paid, short levied or erroneously refunded shall be deemed to be a service of notice under Sub-section (1) or (3) or (4) or (5) of this section, subject to the condition that the grounds relied upon for the subsequent period are the same as are mentioned in the earlier notice or notices.

Section 11AB(1) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.97 — Modified

11AA(1) & (2)	If duty is not paid when it ought to have been paid, interest is payable at the rates specified by Central Government by notification in Official Gazette (present rate is 18%). The interest is payable from the first day of the month following the month in which the duty ought to have been paid, till the date of payment.

Section 11AC under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.97 — Modified

11AC(1)(a)	**Nature of contravention:** any duty of excise has not been levied or paid or 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 there under with intent to evade payment of duty **Amount of penalty:** An amount of 5,000 or 10% of duty liable, whichever is higher.

Proviso to 11AC(1)(a)	**Nature of contravention:** duty along with interest is paid before issue of Show Cause Notice (SCN) or within 30 days from the date of issue of SCN **Amount of penalty:** no penalty in respect of such SCN shall be deemed to be concluded.
11AC(1)(b)	**Nature of contravention:** duty along with interest is paid within 30 days of communication of order, subject to the condition that the penalty is also paid within 30 days of communication. [applicable to cases not involving fraud etc] **Amount of penalty:** 25% of the penalty of the penalty imposed.
11AC(1)(c)	**Nature of contravention:** any duty of excise has not been levied or paid or 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 there under with intent to evade payment of duty **Amount of penalty:** penalty equal to duty demanded.
11AC(1)(d)	**Nature of contravention:** duty along with interest is paid within 30 days of communication of Notice, subject to the condition that the reduced penalty is also paid within 30 days of communication. [applicable to cases involving fraud etc.] **Amount of penalty:** 15% of the duty demanded. Proceedings shall be deemed to be concluded.
11AC(1)(e)	**Nature of contravention:** duty along with interest is paid within 30 days of communication of order, subject to the condition that the reduced penalty is also paid within 30 days of communication. [applicable to cases involving fraud etc.] **Amount of penalty:** 15% of the duty demanded. Proceedings shall be deemed to be concluded.

Proviso to Section 11B(2) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.97 — Modified

Proviso to section 11 B(2)	Refund will be paid to assessee only in following cases – • Rebate of excisable goods exported out of India (if he had exported on section 11 B(2) payment of duty; • Rebate of excise on excisable materials used in manufacture of goods exported out of India (if he has not availed Cenvat credit); • Refund of duty paid on inputs (if payable according to any rule or notification); • To Manufacturer, if he has not passed on incidence of the duty to another person; • To Buyer, if he has borne the duty and if he has not passed on incidence of the duty to another person; • To any other class of applicant if borne by any such class of applicants, as may be notified by Government of India, if the incidence of duty has not been passed on to any other person (not specified so far). • Unspent advance deposits lying in balance in the applicant's account current maintained with the principle Commissioner of Central Excise or Commissioner of Central Excise.

Section 11D(1A) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.98 — Modified

11D(1A)	Every person who has collected from buyer any amount in excess of the duty assessed or determined and paid on any excisable goods under CE Act or rules, representing as duty of excise on any excisable goods which are wholly exempt or chargeable to nil rate of duty from any person in any manner, must pay the amount immediately (forthwith) to the credit of Central Government.

Section 11DD under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.98 — Modified

11DD	If excess amount becomes payable under section 11D, interest @ 15% is payable from the first day of the month succeeding the month in which the amount ought to have been paid under this Act.

Section 11DDA under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.98 — Modified

11DDA	(1) Where, during the pendency of any proceedings under section 11A or section 11D, the Central Excise Officer is of the opinion that for the purpose of protecting the interest of revenue, it is necessary so to do, he may, with the previous approval of the Commissioner of Central Excise, by order in writing, attach provisionally any property belonging to the person on whom notice is served under sub-section (1) of section 11A or sub-section (2) of section 11D, as the case may be, in accordance with the rules made in this behalf under section 142 of the Customs Act, 1962 (52 of 1962). (2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Section 12A under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.98 — Modified

12A	Every person liable to pay duty of excise, shall prominently indicate in all documents relating to assessment, sales invoice and other like documents, the amount of duty, which forms part of the price at which such goods are sold.

Section 13 under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.99 — Modified

13	Any Central Excise Officer not below the rank of Inspector of Central Excise may, with prior approval of the Principal Commissioner or Commissioner of Central Excise, arrest any person whom he has reason to believe to be liable to punishment under this Act or the rules made thereunder.

Section 14A and 14AA under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.99 — Modified

14A	Special audit by Cost Accountant or Chartered accountant in case the value has not been correctly declared or determined.
14AA	Special audit by Cost Accountant or Chartered accountant in cases where credit of duty availed or utilised is not within the normal limits, etc.

Section 20 under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.99 — Modified

20	The officer-in-charge of a police station to whom any person is forwarded shall either admit him to bail to appear before the Magistrate having jurisdiction, or in default of bail forward him in custody to Magistrate.

Section 31 and 32 to 32PA under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.99 — Modified

31 and 32 to 32P	Settlement of Cases.

Section 33 under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.99 — Modified

33	Powers of adjudication of confiscation and penalty – Unlimited to Principal Commissioner or Commissioner and up to confiscation of goods not exceeding five hundred rupees in value and imposition of penalty not exceeding two hundred and fifty rupees, by an Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise.

Section 35B(2) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.99 — Modified

35B(2)	The Committee of Commissioners of Central Excise may, if it is of opinion that an order passed by the Appellate Commissioner, or the Commissioner (Appeals) is not legal or proper, direct any Central Excise Officer authorised by him to appeal to the Appellate Tribunal against such order.

Section 35B(3) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.99 — Modified

35B(3)	Appeal to be filed within three months from date of communication of order to Principal Commissioner or Commissioner or other party, as the case may be.

Section 35C(2A) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.100 — Modified

35C(2A)	The Appellate Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of three years from the date on which such appeal is filed.

Section 35D(3) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.100 — Modified

35D(3)	Single member bench can determine issue if duty involved or amount of fine/penalty involved does not exceed ₹ 50 lakhs. However, issue relating to rate of duty or value cannot be determined by a single member bench.

Section 35E(1) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.100 — Modified

35E(1)	The Committee of Chief Commissioners of Central Excise may, of its own motion, call for and examine the record of any proceeding in which a Principal Commissioner or Commissioner as an adjudicating authority has passed any decision or order under this Act for the purpose of satisfying itself as to the legality or propriety of any such decision or order and may, by order, direct such Commissioner or any other Commissioner to apply to the Appellate Tribunal for the determination of such points arising out of the decision or order as may be specified by the Committee of Chief Commissioners of Central Excise in its order.

Section 35E(2) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.100 — Modified

35E(2)	Principal Commissioner or Commissioner can direct any excise officer subordinate to him to apply to Commissioner (Appeals) for the determination of points arising out of order of an adjudicating authority subordinate to him (This will be treated as departmental appeal).

Section 35EE(1) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.100 — Modified

35EE(1)	The Central Government may, on the application of any person aggrieved by any order passed under Section 35A, where the order is of the nature referred to in the first proviso to sub-Section (1) of Section 35B, annul or modify such order. Provided that the Central Government may in its discretion, refuse to admit an application in respect of an order where the amount of duty or fine or penalty, determined by such order does not exceed five thousand rupees.

Section 35FF under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.100 — Modified

35FF	Where an amount deposited by the appellant under Section 35F, is required to be refunded consequent upon the order of the appellate authority there shall be paid to the appellant interest at such rate, not below five percent, and not exceeding thirty-six percent p.a. as it for the time being fixed by the Central Govt. , by notification in the official gazette, on such amount from the date of payment of the amount till the date of refund of such amount (present rate is 6%).

Section 35G(1) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.100 — Modified

35G(1)	Appeal to High Court on substantial question of law. Appeal to High Court can be made if the order of CESTAT does not relate, among other things, to the determination of any question having a relation to rate of duty or to value of goods. Appeal to be filed within 180 days.

Section 35L(b) under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.101 — Modified

35L(b)	Appeal to Supreme Court, if the order passed before the establishment of the National Tax Tribunal by the Appeallate Tribubal relates, among other things, to the determination of any question having a relation to rate of duty or to value of goods.

Section 37C under Point 2.27 [Important Provisions of Central Excise Act, 1944] in Page No. 2.101 — Modified

37C	Any decision or order passed or any summons or notice under the Act shall be served (a) by tendering the same or by sending it with registered post with acknowledgement due to the person for whom it is intended or his authorised agent, (b) If it cannot be served as aforesaid, then by affixing a copy at a conspicuous space in factory or warehouse, (c) If this is also not possible, then affixing a copy on the notice board of the office or authority which issued the notice, order, summons or decision.

Rule 2(c) under Point 2.28 [Important Provisions of Central Excise Rules, 2002] in Page No. 2.101 — Modified

2(c)	'Assessee' means any person who is liable for payment of duty assessed or a producer or manufacturer of excisable goods or a registered person of a private warehouse in which excisable goods are stored, and includes an authorized agent of such person.
2(ea)	"large tax payer" means a person who, - (i) has one or more registered premises under the Central Excise Act, 1944 (1 of 1944); or (ii) has one or more registered premises under Chapter V of the Finance Act, 1994 (32 of 1994); and is an assessee under the Income-Tax Act, 1961 (43 of 1961), who holds a Permanent Account Number issued under section 139A of the said Act, and satisfies the conditions and observes the procedures as notified by the Central Government in this regard.

Rule 7(5) under Point 2.28 [Important Provisions of Central Excise Rules, 2002] in Page No. 2.102 — Modified

7(5)	Where the assessee is entitled to a refund consequent to an order of final assessment under sub-rule (3), then, subject to sub-rule (6), there shall be paid an interest on such refund as provided under section 11BB of the Act.

Rule 8 under Point 2.28 [Important Provisions of Central Excise Rules, 2002] in Page No. 2.102 — Modified

8	Duty is payable by 5th of following month (6th in case of e-payment). In case of goods removed during the month of March, the duty shall be paid by the 31st day of March. SSI units availing SSI exemption, the duty on goods cleared during a quarter of the financial year shall be paid by the 6th day of the month following that quarter, if the duty is paid electronically through internet banking and in any other case, by the 5th day of the month following that quarter, except in case of goods removed during the last quarter, starting from the 1st day of January and ending on the 31st day of March, for which the duty shall be paid by the 31st day of March.

Rule 8(3) under Point 2.28 [Important Provisions of Central Excise Rules, 2002] in Page No. 2.102 — Modified

8(3)	If duty is not paid fully on due date, assessee is liable to pay the outstanding amount along with interest on unpaid amount at the rate specified under section 11AA. If part of duty is paid, the provision of interest will apply to that part of duty which is not paid [present rate of interest is 18%]

Rule 8(3A) under Point 2.28 [Important Provisions of Central Excise Rules, 2002] in Page No. 2.102 — Modified

8(3A)	If the assessee fails to pay the duty declared as payable by him in the return within a period of one month from the due date, then the assessee is liable to pay the penalty at the rate of 1% on such amount of the duty not paid, for each month or part thereof calculated from the due date, for the period during which such failure continues.

Rule 10(2) and 10(3) under Point 2.28 [Important Provisions of Central Excise Rules, 2002] in Page No. 2.102 — Modified

10(2) and 10(3)	The first page and last page of such account book shall be duly authenticated by the producer or manufacturer or his authorised agent [rule 10(2)]. All such records shall be preserved for 5 years immediately after the financial year to which such records pertain [rule 10(3)].

Rule 11(1) under Point 2.28 [Important Provisions of Central Excise Rules, 2002] in Page No. 2.102 — Modified

11(1)	Goods should be removed from a factory or warehouse only under an invoice signed by owner or his authorised agent. In case of cigarettes, invoice shall be counter-signed by Inspector or Superintendent of Central Excise.

Rule 11(5) under Point 2.28 [Important Provisions of Central Excise Rules, 2002] in Page No. 2.102 — Removed

Rule 11(6) under Point 2.28 [Important Provisions of Central Excise Rules, 2002] in Page No. 2.102 — Modified

11(6)	Before making use of the invoice book, serial numbers shall be intimated to Range Superintendent of Central Excise having jurisdiction.

Rule 11(7) under Point 2.28 [Important Provisions of Central Excise Rules, 2002] in Page No. 2.103 — Modified

11(7)	Provisions of rule 11 shall apply mutatis mutandis to goods supplied by an importer who issues invoice on which Cenvat credit can be taken or a first stage dealer or a second stage dealer.

Rule 12(1) under Point 2.28 [Important Provisions of Central Excise Rules, 2002] in Page No. 2.103 — Modified

12(1)	A monthly return is to be submitted by every assessee to Superintendent of Central Excise, of production and removal of goods, and Cenvat credit availed, by 10th of the following month in form ER-1. SSI unit availing concession on basis of annual turnover has to file return on quarterly basis within 10 days from close of quarter in form ER-3.

Rule 12AA under Point 2.28 [Important Provisions of Central Excise Rules, 2002] in Page No. 2.103 — Modified

12AA	Procedure for job work in articles of Jewellery or other articles of precious metals.

Rule 12BB under Point 2.28 [Important Provisions of Central Excise Rules, 2002] in Page No. 2.103 — Modified

12BB	Procedures and facilities by LTU [Large Taxpayer Unit]

Rule 2(b) under Point 2.29 [Important Rules of Central Excise Valuation Rules, 2000] in Page No. 2.103 — Modified

2(b)	"Normal transaction value" means the transaction value at which the greatest aggregate quantity of goods are sold.

Rule 6 under Point 2.29 [Important Rules of Central Excise Valuation Rules, 2000] in Page No. 2.103 — Modified

6	If price is not the sole consideration for sale, the 'Assessable Value' will be the price charged by assessee, plus money value of the additional consideration received. The buyer may supply any of the following directly or indirectly, free or at reduced cost. (a) Materials, components, parts and similar items (b) Tools, dies, moulds, drawings, blue prints, technical maps and charts and similar items used (c) Material consumed, including packaging materials (d) Engineering, development, art work, design work and plans and sketches undertaken elsewhere than in the factory of production and necessary for the production of the goods.

Explanation 2 to Rule 6 under Point 2.29 [Important Rules of Central Excise Valuation Rules, 2000] in Page No. 2.104 — Modified

Explanation 2 to Rule 6	Where an assessee receives any advance payment from the buyer against delivery of any excisable goods, no notional interest on such advance shall be added to the value unless the Central Excise Officer has evidence to the effect that the advance received has influenced the fixation of the price of the goods by way of charging a lesser price from or by offering a special discount to the buyer who has made the advance deposit.

Rule 7 under Point 2.29 [Important Rules of Central Excise Valuation Rules, 2000] in Page No. 2.104 — Modified

7	Where the excisable goods are not sold by the assessee at the time and place of removal but are transferred to a depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold after their clearance from the place of removal and where the assessee and the buyer of the said goods are not related and the price is the sole consideration for the sale, the value shall be the normal transaction value of such goods sold from such other place at or about the same time and, where such goods are not sold at or about the same time, at the time nearest to the time of removal of goods under assessment.

Rule 10A under Point 2.29 [Important Rules of Central Excise Valuation Rules, 2000] in Page No. 2.104 — Modified

10A	Where the excisable goods are produced or manufactured by a job-worker, on behalf of principal manufacturer, then, - (i) in a case where the goods are sold by the principal manufacturer for delivery at the time of removal of goods from the factory of job-worker, where the principal manufacturer and the buyer of the goods are not related and the price is the sole consideration for the sale, the value of the excisable goods shall be the transaction value of the said goods sold by the principal manufacturer; (ii) in a case where the goods are not sold by the principal manufacturer at the time of removal of goods from the factory of the job-worker, but are transferred to some other place from where the said goods are to be sold after their clearance from the factory of job-worker and where the principal manufacturer and buyer of the goods are not related and the price is the sole consideration for the sale, the value of the excisable goods shall be the normal transaction value of such goods sold from such other place at or about the same time and, where such goods are not sold at or about the same time, at the time nearest to the time of removal of said goods from the factory of job-worker; (iii) in a case not covered under clause (i) or (ii), the provisions of foregoing rules, wherever applicable, shall mutatis mutandis apply for determination of the value of the excisable goods : Provided that the cost of transportation, if any, from the premises, wherefrom the goods are sold, to the place of delivery shall not be included in the value of excisable goods.

Second part of Rule 2(a) 2(b) under Point 2.30 [Rules of Classification] in Page No. 2.105 — Modified

Second part of rule 2(a)	Heading will also include finished goods removed un-assembled or disassembled i.e. in SKD or CKD packs.
2(b)	Any reference in heading to material or substance will also include the reference to mixture or combination of that material or substance with other materials or substance. The classification of goods consisting of more than one material or substance shall be according to the principles contained in rule 3.

Example 82 under Practical Problems in Page No. 2.113 — Modified

Example 82: Determine the value on which Excise duty is payable in the following instances. Quote the relevant section/rules of Central Excise Law.

(a) A. Ltd. sold goods to B Ltd., at a value of ₹ 100 per unit in turn, B Ltd. sold the same to C Ltd. at a value of ₹ 110 per unit. A Ltd. and B Ltd. are related, whereas B Ltd. and C Ltd. are unrelated.

(b) A Ltd. and B. Ltd. are inter-connected undertakings, under section 2(g) of MRTP Act. A Ltd. sells goods to B Ltd. at a value of ₹ 100 per unit and to C Ltd. at ₹ 110 per unit, who is an independent buyer.

(c) A Ltd. sells goods to B Ltd. at a value of ₹ 100 per unit. The said goods are captively consumed by B Ltd. in its factory. A Ltd. and B Ltd. are unrelated. The cost of production of the goods to A Ltd. is ₹ 120 per unit.

(d) A Ltd. sells motor spirit to B Ltd. at a value of ₹ 31 per litre. But motor spirit has administered price of ₹ 30 per litre, fixed by the Central Government.

(e) A Ltd. sells to B Ltd. at a value of ₹ 100 per unit. B Ltd. sells the goods in retail market at a value of ₹ 120 per unit. The sale price of ₹ 100 per unit is wholesale price of A Ltd. Also, A Ltd. and B Ltd. are related.

(f) Depot price of a company are -

Place of removal	**Price at depot on 1-1-2016**	**Price at depot on 31-1-2016**	**Actual sale price at depot on 1-2-2016**
Amritsar Depot Bhopal Depot Cuttack Depot	₹ **110** per unit ₹ 120 per unit ₹ 130 per unit	₹ 105 per unit ₹ 115 per unit ₹ 125 per unit	₹ 115 per unit ₹ 125 per unit ₹ 135 per unit

Additional information: (i) Quantity cleared to Amritsar Depot – 100 units, (ii) Quantity cleared to Bhopal Depot – 200 units, (iii) Quantity cleared to Cuttack Depot – 200 units, (iv) The goods were cleared to respective depots on 1-1-2016 and actually sold at the depots on 1-2-2016.

Answer:

(a) Transaction value ₹ 110 per unit (Rule 9 of Valuation value Rules). [Sale to unrelated party].

(b) Transaction value ₹ 100 per unit for sale to B and ₹ 110 for sale to C – Rule 10 read with Rule 4 [Note that inter connected undertaking will be treated as 'related persons' for purpose of excise valuation only if they are 'holding and subsidiary' or are 'related person' as per any other part of the definition of 'related person'. Note that A is selling directly to C as per the question, and not through B Ltd].

(c) Transaction value will be ₹ 100. – section 4(1)—Incase of sale to unrelated person, question of cost of production does not arise.

(d) Transaction value ₹ 31. – section 4. – Since the goods are actually sold at this price, administered price is not considered.

(e) Transaction value ₹ 120 per unit – Rule 9 read with section 4 of Central Excise Act. Sale to an unrelated buyer. [Under new rules, there is no concept of 'wholesale price and retail price']

(f) Under Rule 7, the price prevailing at the Depot on the date of clearance from the factory will be the relevant value to pay Excise duty.

Therefore –

(i) Clearance to Amritsar depot will attract duty based on the price as on 1-1-2016. Transaction value ₹ 110 x 100 units = ₹ 11,000

(ii) Clearance to Bhopal depot, so depot price on 1-1-2016. Therefore, transaction value ₹ 120 × 200 units = ₹ 24,000

(iii) Clearance to Cuttack Depot, depot price on 1-1-2016. Transaction value ₹ 130x120 units = ₹ 26,000. Note the relevant date is 1-1-2016, since the goods were cleared to the depots on that date. No additional duty is payable even if goods are later sold from depot at higher price.

Example 89 under Practical Problems in Page No. 2.117 — Modified

Example 89: Prepare a Cenvat account in the books of A Ltd., and determine the balance as on 30-9-2015 from the following data:

Opening balance as on 1-4-2015 ₹ 47,000.

Inputs received on 04-04-2015 involving excise duty paid ₹ 14,747

Purchased a lathe for ₹ 1,16,000-cum duty price @ excise duty rate of 12.5% on 5-4-2015 and received the lathe into the factory on 5-12-2015.

On 6-4-2015 paid excise duty on final products @12.5% through Cenvat A/c (cum duty price of the goods ₹ 2,32,000).

Inputs cleared as such to a job worker on 1-4-2015 not returned in 180 days, quantity 1,000 Kgs; Assessable value ₹ 2 lacs; ED @ 12.5% of the above, 50% of the inputs were received on 1-10-2015.

Common inputs were used in a product, which was exempted from payment of duty cleared at a price of ₹ 100/unit, which included taxes of ₹ 20/unit; quantity cleared 1,000 units.

On 7-4-2015 duty paid on inputs amounting to ₹ 17,867 was taken credit for in the Cenvat A/c as ₹ 17,687.

Answer:

CENVAT Credit Receivable Account in the Books of A Ltd., as on 30-9-2015

Date	Particulars	Debit (₹)	Credit (₹)
1-4-2015	To Opening Balance	47,000	
4-4-2015	To Sundry Creditors	14,747	
6-4-2015	By Excise duty paid on Final product [(₹2,32,000 ÷112.5)×12.5]		27,778
7-4-2015	To Sundry Creditors	17,687	
30-9-2015	To Sundry Creditors (Credit short taken on 7-4-2015)	180	
30-9-2015	By Reversal of Cenvat Account (6% Amount on Exempted goods)		6,180
30-9-2015	By Reversal of Cenvat Account (Amount equal to duty on inputs not return within 180 days)		24,720
	By Balance Carry Forward		22,936

Example 8 under Rule 3(7) [CENVAT Credit on purchases from EOU/EHTP/STP] of Cenvat Credit Rules in Page No. 3.17 — Modified

Example 8: M/s X Ltd (a unit of 100% EOU) sold goods to M/s A Ltd. for ₹ 20 lac. BCD @10%, CVD 12.5% and Spl. CVD @4% (VAT exempted) are applicable.

Find the total duty of excise. How much Cenvat Credit allowed to M/s A Ltd.

Answer:

Particulars	Value in ₹	Workings
Assessable value Add: Basic Customs Duty 10%	20,00,000 1,00,000	 20,00,000 × 10% × 50%
Balance	21,00,000	
Add: CVD @12.5%	2,62,500	21,00,000 × 12.5%
Balance	23,62,500	
Add: 2% CESS on (₹ 1,00,000 + ₹ 2,62,500)	7,250	3,62,500 × 2%
Add: 1% SAH CESS on (₹ 1,00,000 + ₹ 2,62,500)	3,625	3,62,500 × 1%
Balance	23,73,375	
Add: SPL. CVD 4%	94,935	23,73,375 × 4%
Value of import	24,68,310	

Cenvat Credit allowed is ₹ 3,57,435 (i.e. CVD + Spl. CVD)

Last line of Point 1 under Rule 4 [Conditions for allowing CENVAT Credit] of Cenvat Credit Rules in Page No. 3.18 — Modified

Provided also that the manufacturer or the provider of output service shall not take CENVAT credit after **one year** of the date of issue of any of the documents specified in sub-rule (1) of rule 9.

Last line of Last para under Rule 4(7) [CENVAT credit in respect of Input service] of Cenvat Credit Rules in Page No. 3.19 — Modified

Provided also that the manufacturer or the provider of output service shall not take CENVAT credit after **one year** of the date of issue of any of the documents specified in sub-rule (1) of rule 9**.**

Option 1 and option 2 of Rule 6 of Cenvat Credit Rules under heading [Obligation of a Manufacturer or Producer of Final Products and a Provider of Taxable Services] in Page No. 3.23 — Modified

Rule 6: Obligation of a manufacturer or producer of final products and a provider of taxable service

Option 1: As per rule 6(2) of the CENVAT Credit Rules, 2004 (w.e.f. 1-4-2011).

If separate accounts maintained for the receipt, consumption and inventory of inputs, then the assessee shall take CENVAT credit on inputs which are used:-

in or in relation to the manufacture of dutiable final products excluding exempted goods; and for the provision of output services excluding exempted services.

If separate accounts maintained for the receipt and use of input services, then the assessee shall take CENVAT credit on input services which are used:-

- in or in relation to the manufacture of dutiable final products, excluding exempted goods, and their clearance upto the place of removal; and
- for the provision of output services excluding exempted services

Cenvat reversal of non-excisable goods under Rule 6 of the Cenvat Credit Rules, 2004 [Explanation 1] [w.e.f 01.03.2015]: For the purpose of this rule, exempted goods or final products shall include non-excisable goods cleared for a consideration from the factory.

Valuation of non-excisable goods [Explanation 2]: Value of non-excisable goods –

- Invoice value;
- if invoice value is not available, such value shall be determined by using reasonable means consistent with the principles of valuation contained in the Excise Act and the rules made thereunder.

If separate accounts are not maintained

In this case the manufacturer or service provider has following three options:

Option 2: As per rule 6(3)(i) of the Cenvat Credit Rules, 2004, *pay an amount*:

The manufacturer of goods shall pay an amount equal to 6% of '*value*' of exempted goods (w.e.f. 1-4-2012) and the provider of output services shall pay an amount equal to **7%** (w.e.f. 01-06-2015) of '*value*' of the exempted services [notification no. 14/2015 - Central Excise (N.T.)].

Last line of Point (v) under heading [Important points with regard to Rule 6] of Cenvat Credit Rules in Page No. 3.24 — Modified

(v) If assessee opts to pay 'amount' on exempted services under 6(3)(i) of Cenvat credit Rules, 2004, the amount will be calculated on the value so exempted under abatement scheme. For example Mr. Raj provider of commercial construction services opted abatement 67%. Gross value of contract is ₹100 lakhs. Exempted services are ₹ 67 lakhs and taxable services are ₹ 33 lakhs. Hence, he is liable to pay service tax on ₹ 33 lakhs and 'amount' @**7%** on ₹ 67 lakhs.

Point (b) & (c) of Point (vi) under heading [Value for purpose of Rule 6(3) and 6(3A) of the Cenvat Credit Rules, 2004] of Cenvat Credit Rules in Page No. 3.24 — Modified

(b) Provider of commercial construction services opted abatement 67%. Gross value of contract is ₹100 lakhs. Exempted services are ₹ 67 lakhs and taxable services are ₹ 33 lakhs. Hence, he is liable to pay service tax on ₹ 33 lakhs and 'amount' @**7%** on ₹ 67 lakhs. That is value of exempted services is ₹67 lakhs.

(c) In case of trading goods, selling price of a product is ₹ 250 and the purchase price is ₹ 200, the difference is ₹ 50 or ₹ 20 (i.e. ₹ 200 x 10%) whichever is higher will be considered as value of exempted service for the purpose of payment of amount @**7%** or for proportionate reversal of credit.

Rule 12AAA [Power to impose restrictions in certain types of cases] of Cenvat Credit Rules in Page No. 3.30 — Modified

Rule 12AAA: Power to impose restrictions in certain types of cases

Where the Central Government, having regard to the extent of misuse of CENVAT credit, nature and type of such misuse and such other factors as may be relevant, is of the opinion that in order to prevent

the misuse of the provision of CENVAT credit as specified in these rules, it is necessary in the public interest to provide for certain measures including restrictions on a manufacturer, first stage and second stage dealer, provider of taxable service or an exporter **or a registered importer** may by notification in the Official Gazette specify the nature of restrictions on utilization of CENVAT credit and suspension of registration in case of a dealer and type of facilities to be withdrawn and procedure for issue of such order by the Chief Commissioner of Central Excise.

7th line of Notification No. 16/2014 dated 21st March, 2014 in Page No. 3.30 — Modified

Notification No. 16/2014 dated 21st March, 2014:

[In pursuance of rule 12CCC of the Central Excise Rules, 2002, and rule 12AAA of the CENVAT Credit Rules, 2004 and in supersession of the notification of the Government of India in the Ministry of Finance, Department of Revenue, No. 05/2012-Central Excise (N.T.), dated the 12th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 140(E), dated the 12th March, 2012, except as respects things done or omitted to be done before such supersession, the Central Government hereby declares that where a manufacturer, first stage or second stage dealer, or an exporter including a merchant exporter **or a registered importer** is prima facie found to be knowingly involved in any of the following ……]

Point (5) of Explanation of Notification No. 16/2014 dated 21st March, 2014 in Page No. 3.31 — Modified

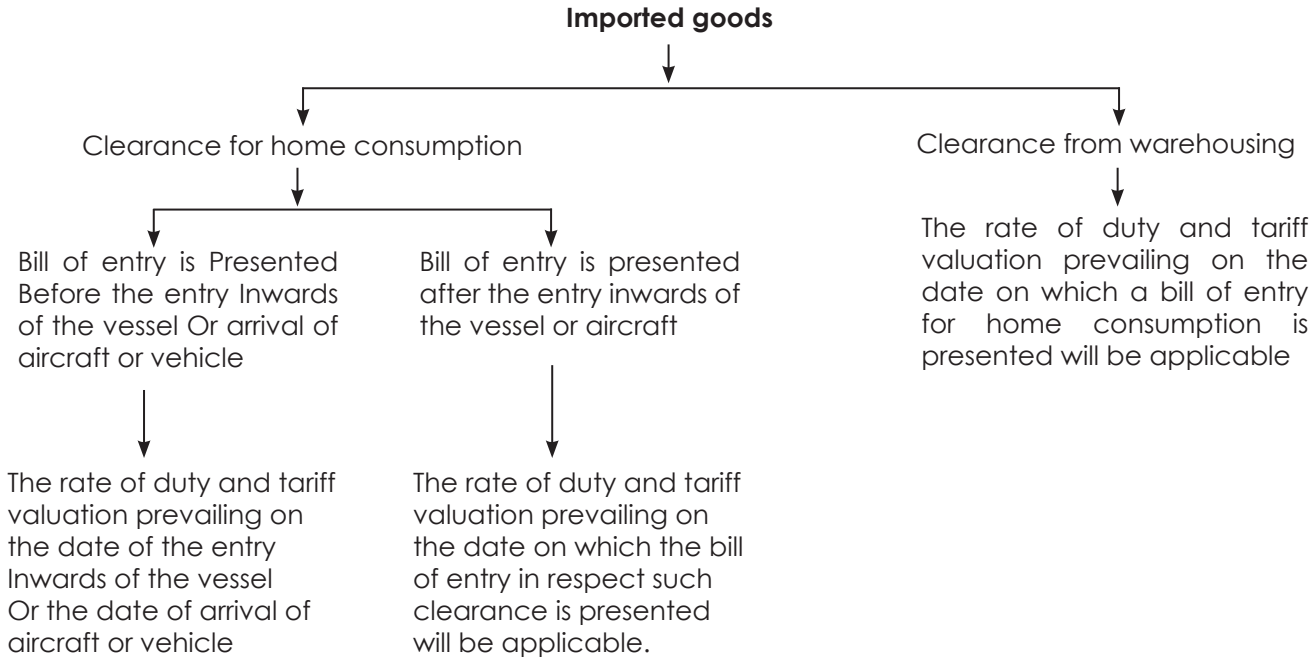
(5) If a manufacturer, first stage dealer or second stage dealer or an exporter **or an registered importer** does anything specified in clause (f) of para 1, the Chief Commissioner of Central Excise may order withdrawal of the other facility available to them.

Study Note - 4

Last line of Point (A) under Point 4.1.4 [Circumstances of Levy] in Page No. 4.9 — Modified

Provided that a bill of entry may be presented even before the delivery of such manifest or report, if the vessel or the aircraft or vehicle by which the goods have been shipped for importation into India is expected to arrive within thirty days from the date of such presentation. **In case the vessel or aircraft or vehicle does not arrive within 30 days of presentation of the bill of entry, the bill of entry so presented shall stand cancelled.**

Diagram under Point (E) [Date of determination of Rate of duty and tariff valuation for Imported Goods] in heading 4.1.4 [Circumstances of Levy] in Page No. 4.10 — Modified



Point 4.2.1 of Point 4.2 [Types of Custom Duty] in Page No. 4.13 — Modified

4.2.1 Basic customs duty is levied under section 12 of Customs Act. Normally, it is levied as a percentage of value as determined under section 14(1). The basic customs duties are 5%, 7.5%, and 10%. Highest rate of basic customs duty is 10% for non-agricultural items, with some exceptions.

Assessable Value = CIF value of imported goods converted into Rupees at exchange rate specified in notification issued by CBE&C plus landing charges 1% (plus some additions often arbitrarily and whimsically made by customs).

Section 2 of the Customs Tariff Act, 1975 provides the rate of duty to be applied on the value of goods. Basically section 2 of the Customs Tariff Act, 1975 provides following:-

- First Schedule — Goods liable for import duty
- Second Schedule — Goods liable for export duty

Basic Customs Duty levied u/s 12 of Customs Act.

(i) The rate of basic customs duty is specified in Customs Tariff Act, read with relevant exemption notification. Generally, Basic Customs Duty is 10% of Non-Agricultural Goods.

(ii) CVD equal to excise duty is payable on imported goods u/s 3(1) of Customs Tariff Act. General excise duty rate is 12.5%. Consider only basic excise duty as CVD. It means CVD is equal to Basic Excise Duty(w.e.f 01-03-2015).

(iii) Special CVD (SAD) is payable @4% on imported goods u/s 3(5) of Customs Tariff Act. This is in lieu of Vat/Sales tax to provide level playing field to Indian goods.

(iv) Education Cess of customs @ 2% and SAH Education Cess of 1% is payable.

(v) NCCD has been imposed on a few articles. In addition, on certain goods, Anti-Dumping Duty, Safeguard Duty, Protective Duty etc. can be imposed.

Calculated of customs duty payable is as follows, w.e.f. 01.03.2015

Seq.	Duty Description	Duty %	Amount	Total Duty
(A)	Assessment Value ₹		20,000.00	
(B)	Basic Customs Duty	10	2,000.00	2,000.00
(C)	Sub-Total for calculating CVD '(A+B)'		22,000.00	
(D)	CVD 'C' x excise duty rate	12	2,750.00	2,750.00
(E)	Sub-total for edu cess on customs 'B+D'		4,750.00	
(F)	Edu Cess of Customs – 2% of 'E'	2	95.00	95.00
(G)	SAH Education Cess of Customs – 1% of 'E'	1	47.50	47.50
(H)	Sub-total for Spl CVD 'C+D+F+G'		24,892.50	
(I)	Special CVD u/s 3(5) – 4% of 'H'	4	995.70	995.70
(J)	**Total Duty**			**5,888.20**
(K)	Total duty rounded to	₹		5,888.00

Notes- Buyer, who is manufacturer, is eligible to avail Cenvat Credit of D and I above. A buyer, who is service provider, is eligible to avail Cenvat Credit of D above. A trader who sells imported goods in India after charging Vat/sales tax can get refund of Special CVD of 4% i.e. 'I' above.

Point ii of Point 4.2.2 [Additional Customs Duty U/S 3(1) (CVD)] in Page No. 4.15 — Modified

ii. CVD is payable equal to Excise Duty payable on like articles if produced in India. It is payable at effective rate of Excise Duty, which is generally 12.5%. It means CVD is equal to Basic Excise Duty (w.e.f 01-03-2015).

Example 4 under Point 4.2.2 [Additional Customs Duty U/S 3(1) (CVD)] in Page No. 4.15 — Modified

Example 4: An importer imported some goods for subsequent sale in India at $12,000 on CIF basis. Relevant exchange rate as notified by the Central Government and RBI was ₹ 45 and ₹ 45.50 respectively. The item imported attracts basic duty at 10%. If similar goods were manufactured in India, Excise Duty payable as per Tariff is 14%. Arrive at the Assessable value and the total duty payable thereon.

Answer:

Assessable Value	= ₹ 5,45,400
Add: Basic Customs Duty 10% x 5,45,400	= ₹ 54,540
Balance	= ₹ 5,99,940
Add: CVD 14% on ₹ 5,99,940	= ₹ 83,992
Add: Education Cess 2% on 54,540 + 83,992	= ₹ 2,771
Add: SAH 1% on 54,540 + 83,992	= ₹ 1,385
Total value of imported goods	= ₹ 6,88,088

Working Note:

CIF Value	= 12,000 US$
Total CIF in₹ @ 45.00 per US $	= ₹ 5,40,000
Add: Landing Charges @1% of CIF	= ₹ 5,400
Assessable value	= ₹ 5,45,400

Example 5 under Point 4.2.5 [Refund of Special CVD of Customs to Traders] in Page No. 4.17 — Modified

Example 5: An importer imported some goods for subsequent sale in India at $ 20,000 on CIF basis. Relevant exchange rate as notified by the Central Government ₹ 45. The item imported attracts basic duty at 10% and education Cess as applicable. If similar goods were manufactured in India, Excise Duty payable as per Tariff is 12.5%. Special Additional Customs Duty is 4%. Find the total duty payable.

Answer:

	₹
CIF value USD 20,000 X 45	9,00,000
Add: Loading and unloading @1%	9,000
Assessable Value	9,09,000
Add: Basic Customs Duty @10% on ₹9,09,000	90,900
	9,99,900
Add: Additional Customs Duty [@12.5% x ₹9,99,900]	1,24,988
	11,24,888
Add: Education Cess 2% on (₹90,900 + ₹1,24,988)	4,318
Add: SAH @1% on (₹90,900 + ₹1,24,988)	2,159
	11,31,365
Add: Special Additional Customs Duty [@4% × ₹11,31,365]	45,255
Total value of imported goods	11,76,620

Therefore total duty payable is ₹ 2,67,620.

[Rest of the examples/ illustrations to be solved after considering CVD @12.5% in the same manner]

Condition 2 of Re-importation of goods under Point 4.10.8 [Duty Liability in Certain Special Circumstances] in Page No. 4.54 — Modified

Condition -2:

Goods exported for repairs abroad and reimported by the same person within 3 years (or extended period, if any) without being re-manufactured/ re-processed, and also without change in ownership between export and re-import.

Duty leviable on a value = Fair cost of repairs carried out including cost of materials used in repairs (whether such costs are actually incurred or not) + Insurance and freight charges, both ways. [Notification No. 94/96-Cus., dated 16-12-1996).

Point (j) [Interest payable if goods cleared from warehouse through DEPB debit] of Point 3 [Warehousing period under customs] in Page No. 4.66 — Removed

1st line of Point "Allowance to professionals returning to India" of Point 4.17.4 [Baggage of Indian resident or foreigner residing in India] in Page No. 4.79 — Modified

An Indian passenger who was engaged in his profession abroad for **at least** three months is allowed to import following duty free goods as additional allowance ……..

Point (f) of "Conditions for TR concession" of Point 4.17.5 [Concession to persons transferring his residence (TR)] in Page No. 4.80 — Modified

(f) Jewellery upto ₹**50,000** for male passenger and ₹**1,00,000** for female passenger can be imported free of customs duty. (Rule 8 of Baggage Rules, 1998, read with Appendix F).

Point "Limit on bringing jewellery duty free" of Point 4.17.5 [Concession to persons transferring his residence (TR)] in Page No. 4.80 — Modified

Limit on bringing jewellery duty free - The jewellery allowed to be imported duty free is limited to ₹**50,000** for male passenger and ₹**1,00,000** for female passenger. This limit is not applicable if the passenger produces evidence that the jewellery was, in fact, taken out of India by the passenger or his family.

Point "Articles not allowed under TR" of Point 4.17.5 [Concession to persons transferring his residence (TR)] in Page No. 4.81 — Modified

Articles not allowed under TR - Transfer of Residence concession is not available to alcoholic liquor or wines (in excess of two litres), cigarettes (exceeding 100), cigars (exceeding 25), tobacco (exceeding 125 gms), Gold (other than ornaments), Silver (other than ornaments), fire arms and cartridges of fire arms exceeding 50 - Annex I of Baggage.

Comparison of the provision of section 74 and 75 under Drawback in Page No. 4.88 — Modified

Comparison of the provision of section 74 and 75 is as follows:

Drawback allowable on re-export of duty paid goods – (Sec. 74)	**Drawback on material used in the manufacture of exported goods (sec. 75)**
(i) Drawback, in relation to any goods exported out of India, means refund of duty paid on importation of such goods in terms of section 74. Thus, drawback is allowed only if import duties of customs.	"Drawback" in relation to any goods manufactured in India and exported, means the rebate of duty or fact, as the case may be, chargeable on cay imported materials or excisable materials used or taxable services used as input services in the manufacture of such goods.
(ii) The identity of the goods exported should be established as the one, which was imported on payment of duty.	The goods exported under this section one different from the inputs as the inputs are manufactured, processed or any operations are carried on then before their export.
(iii) Drawback under this section is available on all goods (Identification is the only criterion)	Drawback under this section is available only on notified goods.
(iv) The exported goods should have been imported and customs duty by paid thereon.	The goods to be exported may be manufactured or processed from imported or indigenous inputs or by utilizing input services.

(v) The rate of drawback is 98% in case the goods are exported without use. The rate of drawback on goods taken into use is separately notified depending upon the period of use, depreciation in value and other relevant factors.	Drawback is allowed at All Industry Rate or Brand Rate or Special Brand Rate, as is applicable.
(vi) The goods should be exported within two years (or extended period) from the date of payment of duty or such extended time as the board may allow.	No such restrictions.
(vii) There is no criterion of minimum value addition, which is to be fulfilled before export for claim of drawback.	It has been specifically provided that there should not be negative value addition and in case where minimum value addition is specified the same should be achieved for claim of drawback.
(viii) No provision for recovery of export sale proceeds	The sale-proceeds in respect of such goods on which the drawback has been allowed, have to be received by the exporter or by any person on his behalf with the period as specified by RBI, except in exceptional circumstances
(ix) The drawbacks is governed by the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995.	The drawback, in this case, is governed by the Customs, Central Excise Duties and Service Tax drawback Rules, 1995. The rules cover customs duty, central excise duty and service tax.

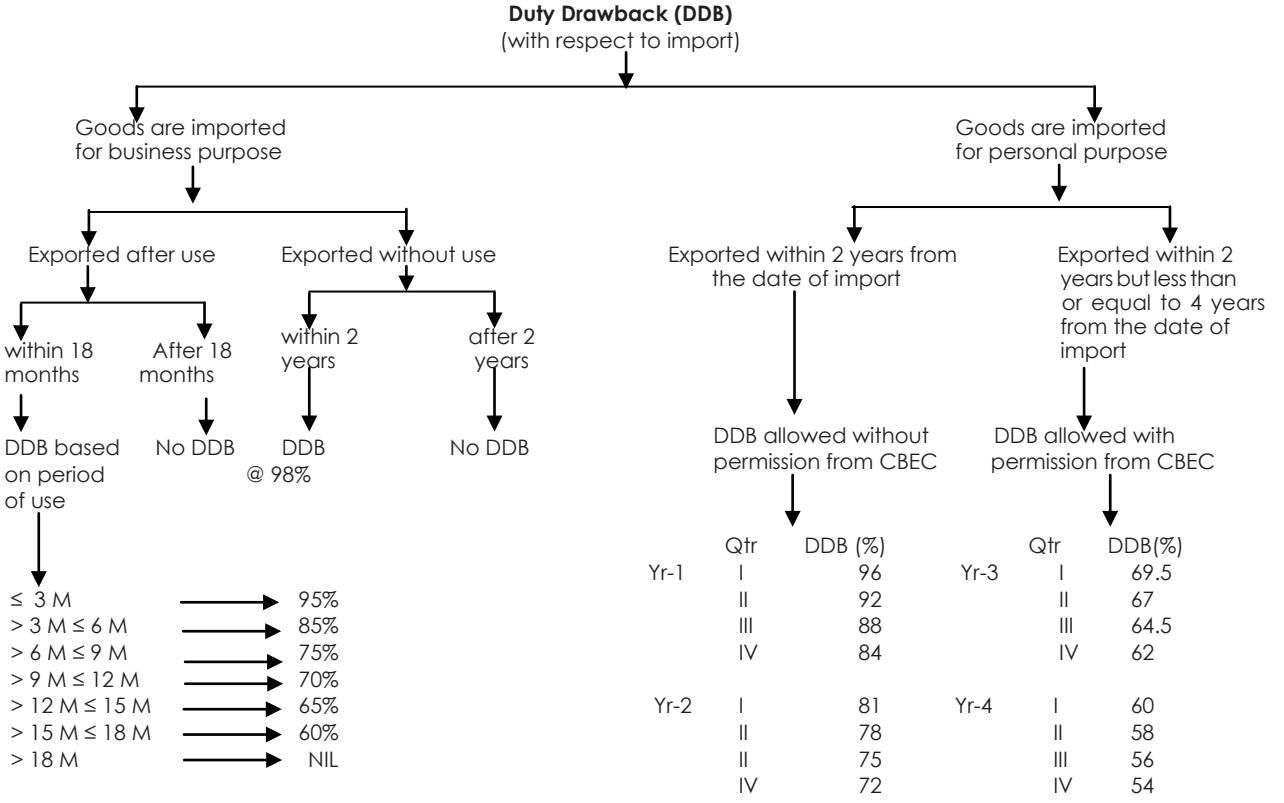
Table "Duty draw back allowed based on period of usage" under Point 4.18.2 [Duty Drawback on Re-Export] in Page No. 4.89 — Modified

Duty draw back in case of goods used after importation, allowed based on period of usage:

Period between date of clearance for home consumption and date to when goods are placed under customs control for export	% of DDB on import duty
≤ 3M	95%
> 3M ≤ 6M	85%
> 6M ≤ 9M	75%
> 9M ≤ 12M	70%
> 12M ≤ 15M	65%
> 15M ≤ 18M	60%
> 18M	NIL

Diagram under Duty Drawback on Re-Export in Page No. 4.90 — Modified

Summary of duty drawback on re-export has been explained as follows —



"Brand Rate of Duty Drawback" and "Special Brand Rate of duty drawback" in Page No. 4.90 — Modified

Brand Rate of Duty Drawback – It is possible to fix All Industry Rate only for some standard products. It cannot be fixed for special type of products. In such cases, brand rate is fixed under rule 6 by furnishing the prescribed data within 3 months from the relevant date for determination of rate of duty and tariff valuation under section 16 or 83, to the Principal Commissioner or Commissioner of Central Excise and Customs stating all relevant facts including the proportion in which the materials or components or input services are used in the production or manufacture of goods and the duties paid on such materials or components or service tax paid on such input services.

Special Brand Rate of duty drawback – In case if the duty drawback as per all industry rate is less than 80% of the duties or taxes paid on the materials or components or input services, then the manufacturer or exporter, except where a claim for drawback under rule 3 or rule 4 has been made, can apply for special brand rate to the Principal Commissioner or Commissioner of Central Excise and Customs by furnishing the prescribed data within 3 months from the relevant date for determination of rate of duty and tariff valuation under section 16 or 83.

Table under point 4.18.7 [Penalties under Custom Act] in Page No. 4.99 — Modified

Imported Goods (A)	Value in (₹) (B)	Minimum Penalty in (₹) (C)	Minimum Penalty in (₹) (B) or (C)
Prohibited Goods	Value of prohibited goods	₹ 5,000	Whichever is higher
Dutiable goods (Other than prohibited goods)	Duty sought to be evaded on such goods x 10%	₹ 5,000	Whichever is higher
Misdeclaration of value	Value declared - Actual value = ₹ XXXX	₹ 5,000	Whichever is higher
Prohibited goods plus misdeclaration value	Value of prohibited goods or Value declared – Actual value whichever is higher	₹ 5,000	Whichever is higher
Dutiable goods plus misdeclaration of value	Duty sought to be evaded or Value declared – Actual value whichever is higher	₹ 5,000	Whichever is higher

Point 4.22.10 [Anti-dumping Application Proforma], 4.22.11 [Cost Accounting – as an aid for assessment under Anti-dumping laws in India], 4.22.12 [Generally Accepted Cost Accounting Principles], 4.22.13 [Cost Accounting Standards (CASs) - relevance and application in the light of Anti-dumping Laws in India], 4.22.14 [Companies (Cost Accounting Records) Rules 2011], and 4.22.15 [Companies (Cost Audit Report) Rules, 2011 - relevance and application in the light of Antidumping Laws in India] from Page No. 4.108 to Page No. 4.114 — Modified

4.22.10 Anti-dumping Application Proforma -

The following is an outline of application proforma under Anti-dumping laws in India:-

Part	Deals with
I	Imported Product Information
II	Indian Industry Profile
III	Evidence of Dumping 1. Estimates of Normal Value 2. Estimates of Export Price 3. Estimates of Dumping Margin
IV	Evidence of Injury
IVA	Injury Information on Domestic Industry
IVB	Country wise landed value
V	Evidence of Casual link
VI	Costing Information Format "A" – Statement of Raw Materials and Packing Materials Consumption and Reconciliation Format "B" – Statement of Raw Material Consumption Format "CI" - Statement of Cost of Production Format "CII" – Allocation and Apportionment of Expenditure Format "D" – Statement of Consumption of Utilities Format "E" – Statement of Sales Relations Format "F" – Certificate

4.22.11 Relevance of Cost Information for imposing anti dumping duty

(1) Description of the cost accounting system used by the company to record the production costs of the product concerned.

(2) Company's use of standard or budgeted costs.

(3) An explanation for allocation method used as well as for any significant or unusual cost-variances that occurred during investigation period.

(4) A list of direct and indirect cost centres.

(5) Method used to allocate cost among the company's organizational units.

(6) Description of Cost Accounting system to value the cost of sales and raw materials, WIP and finished goods inventories for the audited financial statements.

(7) A list of all costs which are valued and treated differently for cost and financial accounting purposes and the reasons treating them differently.

(8) Information regarding cost of production/trading.

4.22.12 Cost Accounting Standards (CASs) - relevance and application in the light of Anti-dumping Laws in India

The following are the Cost Accounting Standards issued by the Institute of Cost Accountants of India. Effective application of CASs brings about uniformity in the principles of measurement and valuation of goods.

CAS	Deals with
1	Classification of Cost
2	Capacity Determination
3	Overheads
4	Cost of Production for Captive consumption
5	Average (Equalized) cost of transportation
6	Material Cost
7	Employee Cost
8	Cost of Utilities
9	Packing Material Cost
10	Direct Expenses
11	Administrative Overheads
12	Repairs and Maintenance
13	Cost of Service Cost Centre
14	Pollution Control Cost
15	Selling and Distribution Overheads
16	Depreciation and Amortization
17	Interest and Financing Charges
18	Research and Development Costs
19	Joint Costs
20	Royalty and Technical Know-how Fee
21	Quality Control
22	Manufacturing Cost

4.22.13 Relevance of Cost Records

"***Cost Records*** *means books of accounts relating to utilization of material, labour and other items of cost as applicable to the production, processing, manufacturing and mining activities of the company*". It has also been clarified that such conformance to Generally Accepted Cost Accounting Principles (GACAP) and Cost Accounting Standards (CAS) are to be followed to the extent these are found to be relevant and applicable and the variations, if any, are required to be indicated and explained.

The basic purpose of maintenance of these cost records is to enable the company to exercise, as far as possible, control over the various operations and costs with a view to achieve optimum economies in utilization of resources. These records shall also provide necessary data which is required to be furnished under these rules.

4.22.14 Companies (Cost Records and Audit) Rules, 2014 - relevance and application in the light of Anti-dumping Laws in India

The following states the relevance of respective Para prescribed Cost Audit Reports and Cost Accounting Standards which may be used as reference for making an authentic assessment under Anti-dumping laws in India. Since the Cost Accounting Records are to be maintained by companies satisfying the prescribed parameters, a reference to the Cost Compliance Report or the Cost Audit Report may be an important tool for the stakeholders in ascertainment of injury margin. Further, application of generally accepted cost accounting principles and cost accounting standards would bring about a uniformity/standardization in the principles followed in measurement and valuation of cost.

Anti-dumping Application Proforma	***Reference to Para prescribed under Cost Audit Report Rules,2014 (Para Reference to CRA 3)***		***Reference to relevant Cost Accounting Standards***
Format A - Statement of Raw Materials and Packing Materials Consumption and Reconciliation	Annexure 2A - Details of Materials Consumed	Item No.1 & 2 Raw Material Consumption and Process Materials	CAS 6 – Material Cost
	Annexure 2 - Abridged Cost Statement	Item No.16 and 23 – Primary Packing Cost Material and Secondary Packing Cost	CAS 9 – Packing Material Cost
Format B – Statement of Raw Material Consumption	Annexure 2A - Details of Materials Consumed		CAS – 6 – Material Cost
Format CI – Statement of Cost of Production ***(to be certified by a Cost Accountant in Practice)***	Annexure 2A - Details of Materials Consumed Annexure 1 - Quantitative information Annexure 2 - Abridged Cost Statement Annexure 2B - Details of Utilities consumed		CAS 2 – Capacity Determination CAS 6 – Material Cost CAS 7 – Employee Cost CAS 8 – Cost of Utilities CAS 9 – Packing Material Cost CAS 10 – Direct Expenses CAS 12 – Repairs & Maintenance

Format CII – Allocation and Apportionment of Expenditure	Annexure 1 - Quantitative information Annexure 2 - Abridged Cost Statement	CAS 1 – Classification of Cost CAS 2 – Capacity Determination CAS 3 - Overheads
Format D – Statement of Consumption of Utilities	Annexure 2B - Details of Utilities consumed	CAS 8 – Cost of Utilities

However, for the purpose of ascertaining the Normal Value, Non-injurious price or to determine price undercutting or price underselling, application of the specific Cost Accounting Standards in all relevant situations may be made which would be a safeguard for the stakeholders.

Illustration 1:

Example 37: FORMAT "CI" - STATEMENT OF COST OF PRODUCTION
Name of the Company: XYZ Limited

Installed Capacity			1,00,000 units					
Production in Installed capacity			65,000 units					
Capacity Utilization (%)			65%					
Production in Investigation Period			56,000 units					
Capacity Utilisation in Investigation period			56%					
Sales (quantity)			61,000 units				51,000 units	
Particulars	**Previous Accounting Year**				**Investigating Period**			
	Qty	Rate (₹)	Value (₹)	Cost per unit (₹)	Qty	Rate (₹)	Value (₹)	Cost per unit (₹)
Manufacturing Expenses:								
Raw Materials (specify the major raw materials) (MT)	10,000	100.00	10,00,000	15.38	8,000	120.00	9,60,000	17.14
Utilities			2,00,000	3.08			1,90,000	3.39
Depreciation			1,95,000	3.00			1,75,000	3.13
Others (specify nature of expenditure)								
Administrative Expenses								
Variable			1,30,000	2.00			1,12,000	2.00
Fixed			78,000	1.20			78,000	1.39
Selling & Distribution Expenses								
Variable			61,000	1.00			56,000	1.10
Fixed			40,000	0.62			40,000	0.71

Financial Expenses Variable Fixed			1,30,000 21,000	2.13 0.32			35,700 21,000	0.70 0.38
Less: Miscellaneous Income (from product concerned) – Sale of Scrap raw materials			(25,000)				(20,000)	
Total Cost to make and sell			**18,30,000**	**28.15**			**16,47,700**	**29.42**
Selling Price				**35.00**				**32.00**
Profit/Loss				**6.85**				**2.58**

Note: This Statement of Cost of Production is to be authenticated by a Cost Accountant in Practice

Example 38:

One of the major reasons for this decrease in the quantity of sales is identified to be import of like/similar goods by a foreign company to India. The selling price of such goods, in Indian market, as fixed by the foreign counterpart is ₹ 23, while the same goods are normally sold at that foreign country for ₹ 35. Landed Value of Imports ₹ 25. XYZ Ltd. being deceived requested the competent authority to have a review. Ascertain the injury margin and suggest the measure suitable to safeguard the Indian Industry.

Answer:

Particulars	Amount (₹)
Price of the "Product under Consideration (PUC) or "Article under Investigation" from the Exporting Country / Export Price	23.00
Normal Value of such product, when sold in the domestic market of the exporting country	35.00
Dumping Margin or Margin of Dumping (DM) = 35.00 – 25.00	10.00
Non Injurious Price (NIP) – this is the constructed sale price of the domestic industry which will give a reasonable return on investment and if the domestic industry is able to sale its product at that price, it will not claim any injury	30.00 (say)
Landed Value of Imports (including all the expenses incurred during the course of importation upto the port including the non-creditable duties of customs	25.00
Injury Margin (IM) = Non Injurious Price (-) Landed Value of Imports = 30.00 (-) 25.00	5.00

Thus, for XYZ Ltd. the Injury Margin is ascertained at ₹ 5 per unit. Accordingly, the Authorities shall cause to initiate necessary proceedings to levy additional duty of customs (under the aegis of Anti-dumping Laws) to safeguard the domestic industry.

Example 39: Following is the relevant extract from the Trial Balance of ABC Ltd. for the year ended 31.3.2015.

Particulars	Amount (₹)	Particulars	Amount (₹)
Raw Materials	5,00,000	Sales	10,95,000
Consumable Stores and Spares (Other Inputs)	3,00,000	Other Income	3,000

Utilities (Power, Fuel, Steam, Water, etc)	1,80,000		
Direct Labour	4,00,000		
Manufacturing Overheads	1,50,000		
Research & Development	60,000		
Administrative Overheads	90,000		
Selling & Distribution Cost	50,000		
Depreciation	30,000		
Financial expenses	10,000		
Other Miscellaneous Expenses	12,000		

Company deals with two products for which necessary information is furnished:

Particulars of Expenses	Product X_1	Product X_2
Raw Materials (Ratio of utilization)	60%	40%
Consumable Stores and Spares (Other Inputs)	in proportion to raw materials	
Utilities (Power, Fuel, Steam, Water, etc)	in proportion to raw materials	
Direct Labour	₹ 2,45,000	₹ 1,55,000
Manufacturing Overheads	30%	35%
Research & Development	35%	40%
Administrative Overheads	30%	40%
Selling & Distribution Cost	35%	50%
Depreciation	45%	55%
Financial expenses	50%	30%
Other Miscellaneous Expenses	25%	25%

Prepare Statement showing Allocation and Apportionment of Expenditure for assessment under Anti-dumping laws in India for Product X_1, which is the Product under Investigation.

Answer:

Format CII

Statement Showing Allocation and Apportionment of Expenditure for Product X_1

Sl. No.	Particulars of expenses	Total applicable to product under investigation	Share applicable to product under investigation	Share not allocation/ apportionment	Basis
1	Raw Materials (Ratio of utilization)	3,00,000	3,00,000	NIL	Actual Ratio
2	Consumable Stores and Spares (Other Inputs)	1,80,000	1,80,000	NIL	Raw Material Ratio

3	Utilities (Power, Fuel, Steam, Water, etc)	1,08,000	1,02,000	6,000	CAS 8
4	Direct Labour	2,45,000	2,41,000	4,000	CAS – 7 (Actual)
5	Manufacturing Overheads	45,000	38,000	7,000	Cost Driver
6	Research & Development	21,000	15,000	6,000	Wrong Basis
7	Administrative Overheads	27,000	24,000	3,000	CAS - 11
8	Selling & Distribution Cost	17,500	16,000	1,500	CAS -15
9	Depreciation	13,500	11,500	2,000	CAS-16, Value of Asset
10	Financial expenses	5,000	5,000	NIL	CAS-17, Actual utilization of borrowed funds
11	Other Miscellaneous Expenses	3,000	3,000	NIL	Actual
12	**Total Expenditure Total of (1) to (11)**	**9,65,000**	**9,35,500**	**29,500**	
13	Sales	10,95,000	10,95,000	NIL	
14	Other Income (Sale of Scrap of Product X_1)	3,000	3,000	NIL	
15	**Total Income (13+14)**	**10,98,000**	**10,98,000**	**NIL**	
16	**Profit/Loss**	**1,33,000**	**1,33,000**		

Note:

This statement is to be certified by a Practicing Cost Accountant.

Study Note - 5

EXIM Policy has been fully changed to Foreign Trade Policy 2015-2020

GLOSSARY (ACRONYMS)

Acronym	Explanation
AA	Advance Authorisation
AANF	Appendices and Aayaat Niryaat Form
ACU	Asian Clearing Union
AEZ	Agri Export Zone
ANF	Aayat Niryaat Form
ARE-1	Application for Removal of Excisable Goods for Export (By Air/Sea/Post/Land)
ARE-3	Application for Removal of Excisable Goods from a factory or a warehouse to another warehouse
ACP	Accredited Clients Programme
AEO	Authorised Economic Operator
AES	Approved Exporter's Scheme
APEDA	Agricultural & Processed Food Products Export Development Authority
ARO	Advance Release Order
ASEAN	Association of South- East Asian Nations
ASIDE	Assistance to States for Infrastructure Development of Exports
AU	Actual User
BCD	Basic Customs Duty
BG	Bank Guarantee
BIFR	Board of Industrial and Financial Reconstruction
BOA	Board of Approval
BOT	Board of Trade
BRC	Bank Realisation Certificate
BTP	Biotechnology Park
BIS	Bureau of Indian Standards
CBEC	Central Board of Excise and Customs
CCP	Customs Clearance Permit
CEA	Central Excise Authority
CEC	Chartered Engineer Certificate
CED	Central Excise Duty
CENVAT	Central Value Added Tax
CETF	Common Effluent Treatment Facility
CFCs	Common Facility Centres
CG	Capital Goods
CIF	Cost, Insurance & Freight
CIN	Corporate Identification Number
CIS	Commonwealth of Independent States
CKD	Completely Knocked Down
CoD	Cash on Delivery
CoO	Certificate of Origin
CQCTD	Committee on Quality Complaints and Trade Disputes
CRES	Certificate of Registration as Exporter of Spices

CEPA	Comprehensive Economic Partnership Agreement
CBEC	Central Board of Excise and Customs
CSP	Common Service Provider
CECA	Comprehensive Economic Cooperation Agreement
CVD	Countervailing Duty
DA	Document against Acceptance
DBK	Drawback
DC	Development Commissioner
DDA	Diamond Dollar Accounts
DEA	Department of Economic Affairs
DEL	Denied Entity List
DES	Duty Exemption Schemes
DFIA	Duty Free Import Authorisation
DGCI&S	Director General, Commercial Intelligence & Statistics.
DIN	Director Identification Number
DPIN	Designated Partner Identification Number
DGFT	Director General of Foreign Trade
DIPP	Department of Industrial Policy & Promotion
DoBT	Department of Bio-Technology
DoC	Department of Commerce
DeitY	Department of Electronics and Information Technology
DoR	Department of Revenue
DoT	Department of Telecommunications
DRS	Duty Remission Schemes
DTA	Domestic Tariff Area
e-BRC	Electronic Bank Realisation Certificate
e-IEC	Electronic Importer-Exporter Code
ECA	Enforcement- cum-Adjudication
EDI	Electronic Data Interchange
ECGC	Export Credit Guarantee Corporation
EEFC	Exchange Earners' Foreign Currency
EFC	Exim Facilitation Committee
EFT	Electronic Fund Transfer
EGM	Export General Manifest
EHTP	Electronic Hardware Technology Park
EIC	Export Inspection Council
EO	Export Obligation
EODC	Export Obligation Discharge Certificate
EOP	Export Obligation Period
EOU	Export Oriented Unit
EPC	Export Promotion Council
EPCG	Export Promotion Capital Goods
EPO	Engineering Process Outsourcing
EXIM	Export Import
FDI	Foreign Direct Investment
FE	Foreign Exchange
FEMA	Foreign Exchange Management Act

FIEO	Federation of Indian Export Organisation
FIRC	Foreign Exchange Inward Remittance Certificate
FOB	Free On Board
FOR	Freight on Road and Rails
FT (D&R)Act	Foreign Trade (Development & Regulation) Act, 1992 (22 of 1992)
FTDO	Foreign Trade Development Officer
FTP	Foreign Trade Policy
FT(R) Rules	Foreign Trade (Regulation) Rules
FTWZ	Free Trade and Warehousing Zone
FTA	Free Trade Agreement
G&J EPC	Gems & Jewellery Export Promotion Council
GOI	Government of India
GATS	General Agreement on Trade in Services
GR	Guarantee of Realisation
HACCP	Hazard Analysis and Critical Control Process
HBP	Handbook of Procedures
HHEC	Handicraft & Handlooms Exports Corporation
ICB	International Competitive Bidding
ICD	Inland Container Depot
ICM	Indian Commercial Mission
IEC	Importer Exporter Code
ISO	International Organisation for Standardisation
IAEA	International Atomic Energy Agency
INFCIRC	International Atomic Energy Agency Information Circular
IEM	Industrial Entrepreneurial Memorandum
IMSC	Inter-Ministerial Standing Committee
IL	Industrial Licensing
ISO	International Standards Organisation
ITC (HS)	Indian Trade Classification (Harmonised System) for Export & Import Items
KVIC	Khadi and Village Industries Commission
LC	Letter of Credit
LCS	Land Customs Station
LLPIN	Limited Liability Partnership Number
LPG	Liquefied Petroleum Gas
LoC	Line of Credit
LoI	Letter of Intent
LoP	Letter of Permit
LUT	Legal Undertaking
MAI	Market Access Initiative
MDA	Market Development Assistance
MEA	Ministry of External Affairs
MEIS	Merchandise Exports from India Scheme
MRA	Mutual Recognition Agreements
MoD	Ministry of Defence
MoF	Ministry of Finance
MSME	Ministry of Micro Small and Medium Enterprises
MSMED	Micro Small and Medium Enterprises Development

MSTC	Metal Scrap Trade Corporation
NBFC	Non- Banking Financial Company
NC	Norms Committee
NFE	Net Foreign Exchange
NI	Non-Infringing
NCB	National Competitive Bidding
NOC	No Objection Certificate
PDS	Public Distribution System
PEC	Project and Equipment Corporation of India Ltd.
PIC	Policy Interpretation Committee
PRC	Policy Relaxation Committee
PAN	Permanent Account Number
PH	Personal Hearing
PTA	Preferential Trade Agreement
PSU	Public Sector Undertaking
R&D	Research and Development
RA	Regional Authority
RBI	Reserve Bank of India
RCMC	Registration-cum-Membership Certificate
REP	Replenishment
RPA	Rupee Payment Area
S/B	Shipping Bill
SAD	Special Additional Duty
SCOMET	Special Chemicals, Organisms, Materials, Equipment and Technology
SEI CMM	Software Engineers Institute's Capability Maturity Model
SEZ	Special Economic Zone
SEIS	Service Exports from India Scheme
SIA	Secretariat for Industrial Assistance
SIIC	State Industrial Infrastructure Corporation
SION	Standard Input Output Norms
SKD	Semi- Knocked Down
SLEPC	State Level Export Promotion Committee
STC	State Trading Corporation
STCL	Spices Trading Corporation Limited
STE	State Trading Enterprise
STH	Star Trading House
STPI	Software Technology Park of India
STR	State Trading Regime
SUVs	Sports Utility Vehicles
TED	Terminal Excise Duty
TEE	Towns of Export Excellence
TH	Trading House
TPO	Trade Promotion Organization
TRA	Telegraphic Release Advice

TRQ	Tariff Rate Quota
TUFS	Technology Upgradation Fund Scheme
UAC	Units Approval Committee
UN	United Nations
VA	Value Addition
WCO	World Customs Organisation
WHOGMP	World Health Organisation Good Manufacturing Practices

Foreign Trade Policy (FTP) is a set of guidelines or instructions or procedures or regularly requirements —

- issued or laid down by the Central Government
- in matters related to foreign trade viz. IMPORT/EXPORT OF GOODS OR SERVICES into, or from, India.

Need of Foreign Trade Policy: The foreign trade policy is needed to regulate the foreign trade. The FTP, in general, aims at -

(i) developing export potential,

(ii) improving export performance,

(iii) encouraging foreign trade,

(iv) creating favorable balance of payments position,

(v) improving efficiency and competitiveness of the Indian industries, etc.,

(vi) create self-reliance and self-sufficiency,

(vii) Ensure export led growth.

Legislation Governing Foreign Trade: The main legislation concerning foreign trade is the Foreign Trade (Development and Regulation) Act, 1992 [FT (D&R) Act], which replaced the earlier Import and Export (Control) Act, 1947.

FT (D&R) Act, confers powers on the Union Ministry of Commerce and Industry, Government of India to -

(a) make provisions for facilitating and controlling foreign trade;

(b) prohibit, restrict and regulate exports and imports, in all or specified cases as well as subject them to exemptions;

(c) formulate and announce an export and import policy and also amend the same from time to time, by notification in the Official Gazette;

(d) appoint a 'Director General of Foreign Trade' for the purpose of the Act, including formulation and implementation of the export-import policy.

The details of FTP 2015-2020 are discussed in following paragraphs.

5.1 LEGAL FRAMEWORK AND TRADE FACILITATION

A. LEGAL FRAMEWORK

Legal Basis of Foreign Trade Policy (FTP)

The Foreign Trade Policy, 2015-20, is notified by Central Government, in exercise of powers conferred under Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992) [FT (D&R) Act], as amended.

Duration of FTP

The Foreign Trade Policy (FTP), 2015-2020, incorporating provisions relating to export and import of goods and services, shall come into force with effect from the date of notification and shall remain in force up to 31st March, 2020, unless otherwise specified. All exports and imports made upto the date of notification shall, accordingly, be governed by the relevant FTP, unless otherwise specified.

Amendment to FTP

Central Government, in exercise of powers conferred by Section 5 of FT (D&R) Act, 1992, as amended from time to time, reserves the right to make any amendment to the FTP, by means of notification, in public interest.

Hand Book of Procedures (HBP) and Appendices & Aayat Niryat Forms (AANF):

Director General of Foreign Trade (DGFT) may, by means of a Public Notice, notify Hand Book of Procedures, including Appendices and Aayat Niryat Forms or amendment thereto, if any, laying down the procedure to be followed by an exporter or importer or by any Licensing/Regional Authority or by any other authority for purposes of implementing provisions of FT (D&R) Act, the Rules and the Orders made there under and provisions of FTP.

Specific provision to prevail over the general

Where a specific provision is spelt out in the FTP/Hand Book of Procedures (HBP), the same shall prevail over the general provision.

Transitional Arrangements

(a) Any License / Authorisation / Certificate / Scrip / any instrument bestowing financial or fiscal benefit issued before commencement of FTP 2015-20 shall continue to be valid for the purpose and duration for which such License/Authorisation/ Certificate / Scrip / any instrument bestowing financial or fiscal benefit Authorisation was issued, unless otherwise stipulated.

(b) In case an export or import that is permitted freely under FTP is subsequently subjected to any restriction or regulation, such export or import will ordinarily be permitted, notwithstanding such restriction or regulation, unless otherwise stipulated. This is subject to the condition that the shipment of export or import is made within the original validity period of an irrevocable commercial letter of credit, established before the date of imposition of such restriction and it shall be restricted to the balance value and quantity available and time period of such irrevocable letter of credit. For operationalising such irrevocable letter of credit, the applicant shall have to register the Letter of Credit with jurisdictional Regional Authority (RA) against computerized receipt, within 15 days of the imposition of any such restriction or regulation.

B. TRADE FACILITATION & EASE OF DOING BUSINESS

Objective

Trade facilitation is a priority of the Government for cutting down the transaction cost and time, thereby rendering Indian exports more competitive. The various provisions of FTP and measures taken by the Government in the direction of trade facilitation are consolidated under this chapter for the benefit of

stakeholders of import and export trade.

DGFT as a facilitator of exports/imports

DGFT has a commitment to function as a facilitator of exports and imports. Focus is on good governance, which depends on efficient, transparent and accountable delivery systems. In order to facilitate international trade, DGFT consults various Export Promotion Councils as well as Trade and Industry bodies from time to time.

Niryat Bandhu - Hand Holding Scheme for new export / import entrepreneurs

(a) DGFT is implementing the Niryat Bandhu Scheme for mentoring new and potential exporter on the intricacies of foreign trade through counselling, training and outreach programmes.

(b) Considering the strategic significance of small and medium scale enterprises in the manufacturing sector and in employment generation, 'MSME clusters' have been identified, based on the export potential of the product and the density of industries in the cluster, for focussed interventions to boost exports.

(c) Outreach activities shall be organized in a structured way with the help of Export Promotion Councils as 'industry partners' and other willing 'knowledge partners' in academia and research community to achieve the objective of Niryat Bandhu Scheme. Further, in order to ensure optimum utilization of resources, efforts would be made to associate all the stakeholders, including Customs, ECGC, Banks and concerned Ministries.

Citizen's Charter

DGFT has in place a Citizen's Charter, giving time schedules for providing various services to clients.

Online Complaint Registration and Monitoring System

An EDI Help Desk is available to assist the exporters in filing online applications on the DGFT portal and resolving other EDI related issues. For assistance an email may be sent at dgftedi@nic.in or Toll Free number 1800111550 can be used. Help Desk facility is also operational at the 4 DGFT Zonal Offices (details at http://dgft.gov.in). An Online Complaint registration and monitoring system allows users to register complaint and receive status/ reply online (details are at http://dgft.gov.in).

Issue of e-IEC (Electronic-Importer Exporter Code)

(a) Importer Exporter Code (IEC) is mandatory for export/import from/to India as detailed in paragraph 2.05 of this Policy. DGFT has recently introduced the facility of issuing Importer Exporter Code in electronic form (e-IEC). For issuance of e-IEC an application can be made online on DGFT website (http//:dgft.gov.in). Applicants can upload the documents and pay the required fee through Net banking.

(b) Processing of such applications by Regional Authority (RAs) of DGFT would be done online and a digitally signed e-IEC would normally be issued/ e-mailed to the applicant within 2 working days.

(c) In case the application is incomplete or otherwise ineligible, the same shall be rejected and a Rejection letter/email (with reasons for rejection) would be sent to the applicant.

(d) Application for issue of e-IEC can also be made from eBiz platform (https://www.ebiz.gov.in).

e-BRC

One prominent initiative in recent times has been the e-BRC (Electronic Bank Realisation Certificate) project and its successful implementation by DGFT. It has enabled DGFT to capture details of realisation of export proceeds directly from the Banks through secured electronic mode. This has facilitated the implementation of various export promotion schemes without any physical interface with the stake holders. So far more than one crore e-BRCs have been captured by this system.

MoU with State Governments for sharing of e-BRC data

MoU has been signed with state governments for sharing of e-BRC data to facilitate refund of VAT by the state governments to exporters. MoU has also been signed with Enforcement Directorate.

Exporter Importer Profile

An electronic procedure has been created to upload various documents in exporter importer profile. Once uploaded, there will be no need to submit these documents / copies of these documents to Regional Authority repeatedly with each application. It intends to reduce the transaction cost and time and is a step towards paperless processing of different applications in DGFT.

Reduction in mandatory documents required for Export and Import

The number of mandatory documents required for exports and imports of goods from/into India have been reduced to three each, as prescribed under paragraph heading, "Mandatory documents for export/import of goods from / into India."

Facility of online filing of applications

All the Regional Authorities (RA) of DGFT and extension counters have been networked with high speed internet. The applications are received and processed electronically. DGFT under the EDI initiatives has provided the facility of on line filing of applications to obtain Importer Exporter Code and various authorizations /scrips. DGFT is one of the first digital signature enabled organisation of the Government of India (GOI), which has introduced a higher level of Encrypted 2048 bit digital signature. There is a web interface for online filing of application after accessing DGFT website (http://dgft.gov.in). The application can be filed by exporter/CHA sitting at home or office in 24X7 environment. Application fee can also be paid online from linked banks. Efforts are being made to allow payment by debit/ credit cards as well. The applications are signed with a digital signature and submitted electronically to the concerned Regional Authority of DGFT, which are then processed on computer by the Regional Authority and authorisations/scrips are issued. Online filing has minimized the physical interface.

Online Inter-ministerial consultation

Presently, the exporters are required to file applications online on the website of DGFT under the Icon E-COM and are required to submit the duly signed and stamped printout of the online application along with all the necessary documents viz. technical specifications, literature etc. Now, a facility is being provided to upload copies of all the required documents including technical specifications, literature etc in PDF/JPG/JPEG/GIF format in the online filing system in respect of (a) Fixation of norms under Advance Authorisation by Norms Committees (b) Export of Restricted Items (c) Import of Restricted Items (d) SCOMET Items. The exporters would not be required to submit the hard copy of application except architectural drawings, machine drawings etc which may be difficult to scan and upload. The processing of the applications will also be done online.

Facility to upload documents by Chartered Accountant / Company Secretary / Cost Accountant

In order to move towards paperless processing, an electronic procedure is being developed to upload digitally signed documents by Chartered Accountant / Company Secretary / Cost Accountant. To start with, this facility would be created for Export From India Schemes. Such documents like Annexure Attached to ANF 3B, ANF 3C and ANF 3D, which are at present signed by these signatories, can be facilitated by this procedure. Exporter shall link digitally uploaded annexure with his online applications after creation of such facility. These facilities may be extended in phased manner to upload documents pertaining to other schemes like Advance Authorisation, DFIA and EPCG.

Electronic Data Interchange (EDI)

DGFT has put in place a robust EDI system for the purpose of export facilitation and good governance. DGFT has set up a secured EDI message exchange system for various documentation related activities including import and export authorizations established with other administrative departments, namely,

Customs, Banks and EPCs. This has reduced the physical interface of exporters and importers with the Government Departments and is a significant measure in the direction of reduction of transaction cost. The endeavour of DGFT has been to enlarge the scope of EDI to achieve higher level of integration with partner departments.

Message Exchange with Community partners

Customs, Banks, Export Promotion Councils (EPCs) are major community partners of DGFT for message exchange. An effective message exchange system is in place with various community partners which is as follows:

(a) **Message Exchange with Customs**

(i) Importer Exporter Code Number.

(ii) Authorisations/Scrips for DFIA, AA, EPCG.

(iii) Shipping Bills for Duty Free Import Authorisation (DFIA), Advance Authorisation (AA), Export Promotion Capital Goods (EPCG), Reward Scrips.

(b) **Message Exchange with eBiz (https://www.ebiz.gov.in)**

(i) Application for Importer Exporter Code Number

(ii) Application for e-IEC.

(c) **Message Exchange with Banks**

(i) Application Fee

(ii) electronic Bank Realisation Certificate (e-BRC) data

(d) **Message Exchange with EPCs**

Registration cum Membership Certificate (RCMC) data.

Encouraging development of Third Party API

DGFT will encourage development of third party software for integration with its system to offer users multiple options for interfacing with the DGFT.

Forthcoming e-Governance Initiatives

DGFT is currently working on the following EDI initiatives:

(i) Message exchange for transmission of export reward scrips from DGFT to Customs.

(ii) Message exchange for transmission of Bills of Entry (import details) from Customs to DGFT.

(iii) Online issuance of Export Obligation Discharge Certificate (EODC).

(iv) Message exchange with Ministry of Corporate Affairs for CIN & DIN information.

(v) Message exchange with CBDT for PAN.

(vi) Acceptance of payment through debit / credit card for payment of application fee under FTP.

(vii) Open API for submission of e-IEC application.

(viii) Mobile Applications for FTP.

Free passage of Export consignment

Consignments of items meant for exports shall not be withheld/ delayed for any reason by any agency of Central/ State Government.

In case of any doubt, authorities concerned may ask for an undertaking from exporter and release such consignment.

No seizure of export related Stock

No seizure shall be made by any agency so as to disrupt manufacturing activity and delivery schedule of exports. In exceptional cases, concerned agency may seize the stock on the basis of prima facie evidence of serious irregularity. However, such seizure should be lifted within 7 days unless the irregularities are substantiated.

24 X 7 Customs clearance

(a) The facility of 24 X 7 Customs clearance for specified import viz. Goods covered by 'facilitated' Bills of Entry and specified exports viz. Factory stuffed containers and goods exported under free Shipping Bills has been made available, at the 18 sea ports at : Chennai, Cochin, Ennore, Gopalpur, JNPT, Kakinada, Kandla, Kolkata, Mumbai, New Mangalore, Marmagoa, Mundra, Okha, Paradeep, Pipavav, Sikka, Tuticorin, Vishakapatnam.

(b) The facility of 24 X 7 Customs clearance for specified imports viz. Goods covered by 'facilitated' Bills of Entry and all exports viz. Goods covered by all Shipping Bills has also been made available at the 17 air cargo complexes at: Ahmedabad, Amritsar, Bangalore, Chennai, Coimbatore, Cochin, Calicut, Delhi, Goa, Hyderabad, Indore, Jaipur, Kolkata, Mumbai, Nashik, Thiruvananthapuram, Vishakhapatnam.

Single Window in Customs

(a) To facilitate trade, the importer and exporter would lodge their clearance documents at a single point only. Required permission if any, from other regulatory agencies would be obtained online without the trader having to approach these agencies. This would reduce interface with Governmental agencies, dwell time and cost of doing business.

(b) Single Window provides a common platform to trade to meet requirements of all regulatory agencies (such as Animal Quarantine, Plant Quarantine, Drug Controller, Textile Committee, etc) involved in exim trade through message exchange. Single Window Scheme is basically a network of cooperating facilities bound by trust and set of agreed interface specifications in which trade has seamless access to regulatory services delivered through electronic means. Benefits of Single Window Scheme include reduced cost of doing business, enhances transparency, integration of regulatory requirements at one common platform reduces duplicity and cost of compliance, optimal utilization of manpower.

Self-Assessment of Customs Duty

Self-Assessment of Customs duty by importers or exporters was introduced vide Finance Act, 2011. The system is trust based. The objective is to expedite release of imported / export goods. The system operates on an electronic Risk Management System (RMS).

Authorised Economic Operator (AEO) Programme

Based upon WCO's SAFE Framework of Standards (FoS), 'Authorised Economic Operator (AEO) programme' has been developed by Indian Customs to enable business involved in the international trade to reap the following benefits:

(i) Secure supply chain from point of export to import;

(ii) Ability to demonstrate compliance with security standards when contracting to supply overseas importers / exporters;

(iii) Enhanced border clearance privileges in Mutual Recognition Agreement (MRA) partner countries;

(iv) Minimal disruption to flow of cargo after a security related disruption;

(v) Reduction in dwell time and related costs; and

(vi) Customs advise / assistance if trade faces unexpected issues with Customs of countries with which India have MRA.

The AEO programmes have been implemented by other Customs administrations that give AEO status holders preferential Customs treatment in terms of reduced examination, faster clearances and other benefits. Thus, the AEO programme is expected to result in Mutual Recognition Agreements (MRA) with these Customs administrations. MRAs would ensure export goods get due Customs facilitation at the point of entry in the foreign country. Apart from securing supply chain, the benefits include reduction in dwell time and consequent cost of doing business. Indian Customs has signed MRA with Hong Kong Customs to recognise respective AEO Programmes to enable trade to get benefits on reciprocal basis. Indian Customs is also engaged in finalising MRA with other counties such as South Korea, Taiwan, USA etc.

Prior filing facility for Shipping Bills

To facilitate processing of shipping bills before actual shipment, prior online filing facility for shipping bills has been provided by the Customs - 7 days for air shipments & ICDs and 14 days for shipments by sea.

Cutting down delay in filing of Export General Manifest (EGM) for duty drawback

To facilitate quicker filing of EGMs and quicker rectification of EGM errors, there is a mechanism of monthly monitoring of EGMs by Chief Commissioners of Customs to ensure that facilitation does not lag on this account (Instruction No. 603/01/2011-DBK dated 31.07.2013).

Facility of Common Bond / LUT against authorizations issued under different EP Schemes

CBEC Circular 11(A)/2011-Cus dated 25.02.2011 has provided the financial year-wise facility of executing common Bond/LUT against Advance Authorization (AA)/Export Promotion Capital Goods (EPCG) Authorisation which is usable across all EDI ports/locations.

Exemption from Service Tax on Services received abroad

For all goods and services exported from India, services received / rendered abroad, where ever possible, shall be exempted from service tax.

Export of perishable agricultural Products

To reduce transaction and handling costs, a single window system to facilitate export of perishable agricultural produce has been introduced. The system will involve creation of multi-functional nodal agencies to be accredited by Agricultural and Processed Food Products Export Development Authority (APEDA), New Delhi. The detailed procedure has been notified at Appendix 1C to Appendices & ANFs.

Time Release Study (TRS)

Central Board of Excise and Customs has decided to undertake 'Time Release Study' (TRS) as per WCO guidelines at major Customs locations on six monthly basis. WCO Time Release Study (TRS) is a unique tool and method for measuring the actual performance of Customs. The underlying objectives of Time Release Study are:

(i) Identifying bottlenecks in the international supply chain / or constraints affecting Customs release.

(ii) Establishing baseline trade facilitation performance measurement.

Towns of Export Excellence (TEE)

(a) **Objective:** Development and growth of export production centres. A number of towns have emerged as dynamic industrial clusters contributing handsomely to India's exports. It is necessary to grant recognition to these industrial clusters with a view to maximize their potential and enable them to move up the value chain and also to tap new markets.

(b) Selected towns producing goods of ₹ 750 Crore or more may be notified as TEE based on potential for growth in exports. However for TEE in Handloom, Handicraft, Agriculture and Fisheries sector, threshold limit would be ₹150 Crore. The following facilities will be provided to such TEE's:

(i) Recognized associations of units will be provided financial assistance under MAI scheme, on

priority basis, for export promotion projects for marketing, capacity building and technological services.

(ii) Common Service Providers in these areas shall be entitled for EPCG scheme.

(c) Notified Towns (TEEs) are listed in Appendix 1 B of Appendices & ANFs.

Director General of Commercial Intelligence and Statistics (DGCI&S), Kolkata as the provider of trade data

DGCI&S is an ISO certified organization under the administrative control of DGFT and it is the provider of trade data which is a source of guidance and direction for export & import trade and which help the exporters and importers formulate their trade strategy. Foreign trade data is disseminated by DGCI&S through (i) Monthly & Quarterly publications in CD form and (ii) Generation of data from the Foreign Trade database as per user's request. The DGCI&S has a Priced Information System (PIS) for disseminating data except for purely Central and State Governments and United Nations bodies. DGCI&S has put in place a Data Suppression Policy. The aim of this policy is to maintain confidentiality of importer's and exporter's commercially sensitive business data. Transaction level data would not be made publicly available to protect privacy. DGCI&S trade data shall be made available at aggregate level with a minimum possible time lag on commercial criteria. DGCI&S can be visited at http://dgciskol.nic.in.

5.2 GENERAL PROVISIONS REGARDING IMPORTS AND EXPORTS

Objective

The general provisions governing import and export of goods and services are dealt with in this heading.

Exports and Imports – 'Free', unless regulated

(a) Exports and Imports shall be 'Free' except when regulated by way of 'prohibition', 'restriction' or 'exclusive trading through State Trading Enterprises (STEs)' as laid down in Indian Trade Classification (Harmonised System) [ITC (HS)] of Exports and Imports. The list of 'Prohibited', 'Restricted' and 'STE' items can be viewed by clicking on 'Downloads' at http://dgft.gov.in.

(b) Further, there are some items which are 'free' for import/export, but subject to conditions stipulated in other Acts or in law for the time being in force.

Indian Trade Classification (Harmonised System) [ITC (HS)] of Exports and Imports

(a) ITC (HS) is a compilation of codes for all merchandise / goods for export/ import. Goods are classified based on their group or sub-group at 2/4/6/8 digits.

(b) ITC (HS) is aligned at 6 digit level with international Harmonized System goods nomenclature maintained by World Customs Organization (http://www. wcoomd.org). However, India maintains national Harmonized System of goods at 8 digit level which may be viewed by clicking on 'Downloads' at http://dgft.gov.in.

(c) The import/export policies for all goods are indicated against each item in ITC (HS). Schedule 1 of ITC (HS) lays down the Import Policy regime while Schedule 2 of ITC (HS) details the Export Policy regime.

(d) Except where it is clearly specified, Schedule 1 of ITC (HS), Import Policy is for new goods and not for the Second Hand goods. For Second Hand goods, the Import Policy regime is given in this FTP.

Compliance of Imports with Domestic Laws

(a) Domestic Laws/ Rules/ Orders/ Regulations / Technical specifications/ environmental/ safety and health norms applicable to domestically produced goods shall apply, mutatis mutandis, to imports, unless specifically exempted.

(b) However, goods to be utilized/ consumed in manufacture of export products, as notified by DGFT, may be exempted from domestic standards/quality specifications.

Authority to specify Procedures

DGFT may specify procedure to be followed by an exporter or importer or by any licensing/Regional Authority (RA) or by any other authority for purposes of implementing provisions of FT (D&R) Act, the Rules and the Orders made there under and FTP. Such procedure, or amendments, if any, shall be published by means of a Public Notice.

IMPORTER-EXPORTER CODE / e-IEC

Importer-Exporter Code (IEC)

(I) An IEC is a 10-digit number allotted to a person that is mandatory for undertaking any export/import activities. Now the facility for IEC in electronic form or e-IEC has also been operationalised.

(a) **Application for IEC/e-IEC:**

Application for obtaining IEC can be filed manually and submitting the form in the office of Regional Authority (RA) of DGFT. Alternatively, an application for e-IEC may be filed online in ANF 2A, on payment of application fee of ₹ 500/-, to be paid online through net banking or credit/debit card (to be operationalised shortly). Documents/ details required to be uploaded/ submitted along with the application form are listed in the Application Form (ANF 2A).

(b) When an e-IEC is approved by the competent authority, applicant is informed through e-mail that a computer generated e-IEC is available on the DGFT website. By clicking on "Application Status" after having filled and submitted the requisite details in "Online IEC Application" webpage, applicant can view and print his e-IEC.

(c) Briefly, following are the requisite details /documents (scanned copies) to be submitted/ uploaded along with the application for IEC:

(i) Details of the entity seeking the IEC:

(1) PAN of the business entity in whose name Import/Export would be done (Applicant individual in case of Proprietorship firms).

(2) Address Proof of the applicant entity.

(3) LLPIN /CIN/ Registration Certification Number (whichever is applicable).

(4) Bank account details of the entity. Cancelled Cheque bearing entity's preprinted name or Bank certificate in prescribed format ANF2A(I).

(ii) Details of the Proprietor/ Partners/ Directors/ Secretary or Chief Executive of the Society/ Managing Trustee of the entity:

(1) PAN (for all categories)

(2) DIN/DPIN (in case of Company /LLP firm)

(iii) Details of the signatory applicant:

(1) Identity proof

(2) PAN

(3) Digital photograph

(d) In case the applicant has digital signature, the application can also be submitted online and no physical application or document is required. In case the applicant does not possess digital signature, a print out of the application filed online duly signed by the applicant has to be submitted to the concerned jurisdictional RA, in person or by post.

(e) Detailed guidelines for applying for e-IEC are available at <http://dgft.gov.in/exim/2000/iec_anf/ iecanf.htm>.

(II) No Export/Import without IEC:

(i) No export or import shall be made by any person without obtaining an IEC number unless specifically exempted.

(ii) Exempt categories and corresponding permanent IEC numbers are given in Para 2.07 of Handbook of Procedures.

(III) Only one IEC against one Permanent Account Number (PAN)

Only one IEC is permitted against on Permanent Account Number (PAN). If any PAN card holder has more than one IEC, the extra IECs shall be disabled.

Mandatory documents for export/import of goods from/into India

(a) Mandatory documents required for export of goods from India:

1. Bill of Lading/Airway Bill
2. Commercial Invoice cum Packing List*
3. Shipping Bill/Bill of Export

(b) Mandatory documents required for import of goods into India

1. Bill of Lading/Airway Bill
2. Commercial Invoice cum Packing List*
3. ill of Entry

[**Note:** *(i) As per CBEC Circular No. 01/15-Customs dated 12/01/2015. (ii) Separate Commercial Invoice and Packing List would also be accepted.]

(c) For export or import of specific goods or category of goods, which are subject to any restrictions/ policy conditions or require NOC or product specific compliances under any statute, the regulatory authority concerned may notify additional documents for purposes of export or import.

(d) In specific cases of export or import, the regulatory authority concerned may electronically or in writing seek additional documents or information, as deemed necessary to ensure legal compliance.

(e) The above stipulations are effective from 1st April, 2015.

Principles of Restrictions

DGFT may, through a Notification, impose restrictions on export and import, necessary for: -

(a) Protection of public morals;

(b) Protection of human, animal or plant life or health;

(c) Protection of patents, trademarks and copyrights, and the prevention of deceptive practices;

(d) Prevention of use of prison labour;

(e) Protection of national treasures of artistic, historic or archaeological value;

(f) Conservation of exhaustible natural resources;

(g) Protection of trade of fissionable material or material from which they are derived;

(h) Prevention of traffic in arms, ammunition and implements of war.

Export/Import of Restricted goods/Services

Any goods /service, the export or import of which is 'Restricted' may be exported or imported only in accordance with an Authorisation / Permission or in accordance with the procedure prescribed in a Notification / Public Notice issued in this regard.

Export of SCOMET Items

Export of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET), as indicated in Appendix-3 of Schedule 2 of ITC(HS) Classification of Export & Import Items, shall be governed by the specific provisions of (i) Chapter IV A of the FT(D&R) Act, 1992 as amended from time to time (ii) Sl. No. 4 & 5 of Table A and Appendix-3 of Schedule 2 of ITC(HS) Classification of Export & Import Items (iii) Para 2.16, Para 2.17, Para 2.18 of FTP given in this study note under the heading "Prohibition on Import and Export of Arms and related material from / its Iraq", "Prohibition on Direct or Indirect import and export from / to Democratic People's Republic of Korea" and "Prohibition on Direct or Indirect Import and Export from / to Iran" respectively and (iv) Para 2.73-2.82 of Hand Book of Procedures, in addition to the other provisions of FTP and Handbook of Procedures governing export authorizations.

Actual User Condition

Goods which are importable freely without any 'Restriction' may be imported by any person. However, if such imports require an Authorisation, actual user alone may import such good(s) unless actual user condition is specifically dispensed with by DGFT.

Terms and Conditions of an Authorisation

Every Authorisation shall, inter alia, include such terms and conditions as may be specified by RA along with the following:

(a) Description, quantity and value of goods;

(b) Actual User condition (as defined in Chapter 9);

(c) Export Obligation;

(d) Minimum Value addition to be achieved;

(e) Minimum export/import price;

(f) Bank guarantee/ Legal undertaking / Bond with Customs Authority/RA.

(g) Validity period of import/export as specified in Handbook of Procedures.

Application Fee

Application for IEC/ Authorisation / License / Scrips must be accompanied by application fees as indicated in the Appendix 2K of Appendices and Aayat Niryat Forms.

Clearance of Goods from Customs against Authorization

Goods already imported / shipped / arrived, in advance, but not cleared from Customs may also be cleared against an Authorisation issued subsequently. This facility will however be not available to "restricted" items or items traded through STEs.

Authorisation - not a Right

No person can claim an Authorisation as a right and DGFT or RA shall have power to refuse to grant or renew the same in accordance with provisions of FT (D&R) Act, Rules made there under and FTP.

Penal action and placing of an entity in Denied Entity List (DEL)

(a) If an Authorisation holder violates any condition of such Authorisation or fails to fulfill export obligation, or fails to deposit the requisite amount within the period specified in demand notice issued by Department of Revenue and /or DGFT, he shall be liable for action in accordance with FT (D&R) Act, the Rules and Orders made there under, FTP and any other law for time being in force.

(b) With a view to raising ethical standards and for ease of doing business, DGFT has provided for self certification system under various schemes. In such cases, applicants shall undertake self certification with sufficient care and caution in filling up information/particulars. Any information / particulars subsequently found untrue/ incorrect will be liable for action under FTDR Act, 1992 and Rules therein in addition to penal action under any other Act/Order.

(c) A firm may be placed under Denied Entity List (DEL), by the concerned RA, under the provision of Rule 7 of Foreign Trade (Regulation) Rules, 1993. On issuance of such an order, for reasons to be recorded in writing, a firm may be refused grant or renewal of a license, certificate, scrip or any instrument bestowing financial or fiscal benefits. If a firm is placed under DEL all new licences, scrips, certificates, instruments, etc will be blocked from printing / issue / renewal.

(d) DEL orders may be placed in abeyance, for reasons to be recorded in writing by the concerned RA. DEL order can be placed in abeyance, for a period not more than 60 days at a time.

(e) A firm's name can be removed from DEL, by the concerned RA for reasons to be recorded in writing, if the firm completes Export Obligation/ pays penalty/ fulfills requirement of Demand Notice(s) issued by the RA/submits documents required by the RA.

PROHIBITIONS (Country and Product Specific):

Prohibition on Import and Export of 'Arms and related material' from / to Iraq

Notwithstanding the policy on Arms and related materials in Chapter 93 of ITC(HS), the import/export of Arms and related material from/to Iraq is 'Prohibited'. However, export of Arms and related material to Government of Iraq shall be permitted subject to 'No Objection Certificate' from the Department of Defence Production.

Prohibition on Direct or Indirect Import and Export from / to Democratic People's Republic of Korea

Direct or indirect export and import of following items, whether or not originating in Democratic People's Republic of Korea (DPRK), to / from, DPRK is 'Prohibited':

All items, materials, equipment, goods and technology including as set out in lists in documents

INFCIRC/254/Rev.11/Part 1 and INFCIRC/254/ Rev.8/Part 2 (IAEA documents), S/2012/947, S/2009/364 and S/2006/853 (UN Security Council documents) and Annex III to UN Security Council resolution 2094 (2013) which could contribute to DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes; Luxury goods, including but not limited to the items specified in Annex IV to UN Security Council resolution 2094 (2013).

Prohibition on Direct or Indirect Import and Export from/ to Iran

(a) Direct or indirect export and import of all items, materials, equipment, goods and technology which could contribute to Iran's enrichment-related, reprocessing or heavy water related activities, or to development of nuclear weapon delivery systems, as mentioned below, whether or not originating in Iran, to/from Iran is 'Prohibited':

  (i) Items listed in INFCIRC/254/Rev.9/Part 1 and INFCIRC/254/Rev.7/Part 2 (IAEA Documents).

  (ii) Items listed in S/2006/263 (UN Security Council document).

(b) All the UN Security Council Resolutions/Documents and IAEA Documents referred to above are available on the UN Security Council website (www.un.org/Docs/sc) and IAEA website (www.iaea.org).

Prohibition on Import of Charcoal from Somalia

Direct or indirect import of charcoal is prohibited from Somalia, irrespective of whether or not such charcoal has originated in Somalia [United Nations Security Council Resolution 2036 (2012)]. Importers of charcoal shall submit a declaration to Customs that the consignment has not originated in Somalia.

IMPORT / EXPORT THROUGH STATE TRADING ENTERPRISES:

State Trading Enterprises (STEs)

(a) State Trading Enterprises (STEs) are governmental and non-governmental enterprises, including marketing boards, which deal with goods for export and / or import. Any good, import or export of which is governed through exclusive or special privilege granted to State Trading Enterprises (STE), may be imported or exported by the concerned STE as per conditions specified in ITC (HS).

(b) Such STE (s) shall make any such purchases or sales involving imports or exports solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale in a non discriminatory manner and shall afford enterprises of other countries adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales.

(c) DGFT may, however, grant an authorization to any other person to import or export any of the goods notified for exclusive trading through STEs.

TRADE WITH SPECIFIC COUNTRIES:

Trade with neighbouring Countries

DGFT may issue instructions or frame schemes as may be required to promote trade and strengthen economic ties with neighbouring countries.

Transit Facility

Transit of goods through India from/ or to countries adjacent to India shall be regulated in accordance with bilateral treaties between India and those countries and will be subject to such restrictions as may be specified by DGFT in accordance with International Conventions.

Trade with Russia under Debt-Repayment Agreement

In case of trade with Russia under Debt Repayment Agreement, DGFT may issue instructions or frame schemes as may be required, and anything contained in FTP, in so far as it is inconsistent with such instructions or schemes, shall not apply.

IMPORT OF SPECIFIC CATEGORIES OF GOODS:

Import of Samples

Import of samples shall be governed by para 2.65 of Handbook of Procedures.

Import of Gifts

Import of gifts shall be 'free' where such goods are otherwise freely importable under ITC (HS). In other cases, such imports shall be permitted against an authorisation issued by DGFT.

Passenger Baggage

(a) Bona-fide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in Baggage Rules notified by Ministry of Finance.

(b) Samples of such items that are otherwise freely importable under FTP may also be imported as part of passenger baggage without an Authorisation.

(c) Exporters coming from abroad are also allowed to import drawings, patterns, labels, price tags, buttons, belts, trimming and embellishments required for export, as part of their passenger baggage without an Authorisation.

Re – import of goods repaired abroad

Capital goods, equipments, components, parts and accessories, whether imported or indigenous, except those restricted under ITC (HS) may be sent abroad for repairs, testing, quality improvement or

upgradation or standardization of technology and re-imported without an Authorisation.

Import of goods used in projects abroad

Project contractors after completion of projects abroad, may import without an Authorisation, goods including capital goods used in the project, provided they have been used for at least one year.

Import of Prototypes

Import of new / second hand prototypes / second hand samples may be allowed on payment of duty without an Authorisation to an Actual User (industrial) engaged in production of or having industrial licence / letter of intent for research in item for which prototype is sought for product development or research, as the case may be, upon a self- declaration to that effect, to satisfaction of customs authorities

Import through courier service

Imports through a registered courier service are permitted as per Notifications issued by DoR. However, importability / exportability of such items shall be regulated in accordance with this FTP/ ITC(HS).

IMPORT POLICY FOR SECOND HAND GOODS :

Second Hand Goods

S. No.	Categories of Second Hand Goods	Import Policy	Conditions, if any
I	Second Hand Capital Goods		
(a)	i. Personal computers/ laptops including their refurbished / reconditioned spares ii. Photocopier machines/ Digital multifunction Print & Copying Machines iii. Air conditioners iv. Diesel generating sets.	Restricted	Importable against authorization
(b)	Refurbished / re-conditioned spares of Capital Goods	Free	Subject to production of Chartered Engineer certificate to the effect that such spares have at least 80% residual life of original spare.
(c)	All other second hand capital goods {other than (a) & (b) above}	Free	
II	Second Hand Goods other than capital goods	Restricted	Importable against Authorization

IMPORT POLICY FOR METALLIC WASTE AND SCRAPS

Import of Metallic waste and Scrap

(a) Import of any form of metallic waste, scrap will be subject to the condition that it will not contain hazardous, toxic waste, radioactive contaminated waste/scrap containing radioactive material, any types of arms, ammunition, mines, shells, live or used cartridge or any other explosive material in any form either used or otherwise as detailed in para 2.54 of Handbook of Procedures.

(b) The types of metallic waste and scrap which can be imported freely and the procedure of import in the shredded form; unshredded compressed and loose form, is laid down in para 2.54 of Handbook of Procedures.

Removal of Scrap/waste from SEZ

A SEZ unit/Developer/ Co-developer may be allowed to dispose of in DTA any waste or scrap, including any form of metallic waste and scrap, generated during manufacturing or processing activity, without an authorization, on payment of applicable Customs Duty.

OTHER PROVISIONS RELATED TO IMPORTS:

Import under Lease Financing

No specific permission of RA is required for lease financed capital goods.

Execution of Legal Undertaking (LUT) / Bank Guarantee (BG)

(a) Wherever any duty free import is allowed or where otherwise specifically stated, importer shall execute, Legal Undertaking (LUT) / Bank Guarantee (BG) / Bond with the Customs Authority, as prescribed, before clearance of goods.

(b) In case of indigenous sourcing, Authorisation holder shall furnish LUT/BG/Bond to RA concerned before sourcing material from indigenous supplier/ nominated agency as prescribed in Chapter 2 of Handbook of Procedures.

Private/Public Bonded Warehouses for Imports

(a) Private/ Public bonded warehouses may be set up in DTA as per terms and conditions of notification issued by DoR. Any person may import goods except prohibited items, arms and ammunition, hazardous waste and chemicals and warehouse them in such bonded warehouses.

(b) Such goods may be cleared for home consumption in accordance with provisions of FTP and against Authorisation, wherever required. Customs duty as applicable shall be paid at the time of clearance of such goods.

(c) If such goods are not cleared for home consumption within a period of one year or such extended period as the customs authorities may permit, importer of such goods shall re-export the goods.

Special provision for Hides Skins and semi-finished goods

Hides, Skins and semi-finished leather may be imported in the Public Bonded warehouse for the purpose of DTA sale and the unsold items thereof can be re-exported from such bonded warehouses at 50% of the applicable export duty. However, this facility shall not be allowed for import under Private Bonded warehouse.

Sale on High Seas

Sale of goods on high seas for import into India may be made subject to FTP or any other law in force.

EXPORTS:

Free Exports

All goods may be exported without any restriction except to the extent that such exports are regulated by ITC (HS) or any other provision of FTP or any other law for the time being in force. DGFT may, however, specify through a public notice such terms and conditions according to which any goods, not included in ITC (HS), may be exported without an Authorisation.

Exemption / Remission of Service Tax in DTA on goods & services exported

For all goods and services which are exported from units in DTA and units in EOU / EHTP / STP / BTP, exemption / remission of service tax levied and related to exports, shall be allowed, as per prescribed procedure in Chapter 4 of Handbook of Procedures.

Benefits for Supporting Manufacturers

For any benefit to accrue to the supporting manufacturer, the names of both supporting manufacturer as well as the merchant exporter must figure in the concerned export documents, especially in ARE-1 / ARE-3 / Shipping Bill / Bill of Export/ Airway Bill.

Third Party Exports

Third party exports (except Deemed Export) as defined in Chapter 9 shall be allowed under FTP. In such cases, export documents such as shipping bills shall indicate name of both manufacturing exporter/ manufacturer and third party exporter(s). Bank Realisation Certificate (BRC), export order and invoice should be in the name of third party exporter.

EXPORTS OF SPECIFIC CATEGORIES

Export of Samples

Export of Samples and Free of charge goods shall be governed by provisions given in para 2.66 of Handbook of Procedures.

Export of Gifts

Goods including edible items, of value not exceeding ₹ 5,00,000 in a licensing year, may be exported as a gift. However, items mentioned as restricted for exports in ITC (HS) shall not be exported as a gift, without an Authorisation.

Export of Passenger Baggage

(a) Bona-fide personal baggage may be exported either along with passenger or, if unaccompanied, within one year before or after passenger's departure from India. However, items mentioned as restricted in ITC (HS) shall require an Authorisation. Government of India officials proceeding abroad on official postings shall, however, be permitted to carry along with their personal baggage, food items (free, restricted or prohibited) strictly for their personal consumption.

(b) Samples of such items that are otherwise freely exportable under FTP may also be exported as part of passenger baggage without an Authorisation.

Import for export

I. (a) Goods imported, in accordance with FTP, may be exported in same or substantially the same form without an Authorisation provided that item to be imported or exported is not restricted for import or export in ITC (HS).

(b) Goods, including capital goods (both new and second hand), may be imported for export provided:

(i) Importer clears goods under Customs Bond;

(ii) Goods are freely exportable, i.e., are not "Restricted"/ "Prohibited"/ subject to "exclusive trading through State Trading Enterprises" or any conditionality/ requirement as may be required under Schedule 2 – Export Policy of the ITC (HS);

(iii) Export is against freely Convertible currency.

(c) Goods in (b) above will include 'Restricted' goods for import (except 'Prohibited' items).

(d) Capital goods, which are freely importable and freely exportable, may be imported for export on execution of LUT/BG with Customs Authority.

II. (a) Goods imported against payment in freely convertible currency would be permitted for export only against payment in freely convertible currency, unless otherwise notified by DGFT.

(b) Export of such goods to the notified countries (presently only Iran) would be permitted against payment in Indian Rupees, subject to minimum 15% value addition.

(c) However, re-export of food, medicine and medical equipments, namely, items covered under ITC(HS) Chapters 2 to 4, 7 to 11, 15 to 21, 23, 30 and items under headings 9018, 9019, 9020, 9021 & 9022 of Chapter-90 of ITC(HS) will not be subject to minimum value addition requirement for export to Iran. Exports of these items to Iran shall, however, be subject to all other conditions of FTP 2015-20 and ITC (HS) 2012, as applicable. Bird's eggs covered under ITC (HS) 0407 & 0408 and Rice covered under ITC (HS) 1006 are not covered under this dispensation, as at II (a) above.

(d) Exports under this dispensation, as at II(b) and (c) above shall not be eligible for any export incentives.

Export through Courier Service

Exports through a registered courier service are permitted as per Notification issued by DoR. However, importability / exportability of such items shall be regulated in accordance with FTP/ ITC (HS).

Export of Replacement Goods

Goods or parts thereof on being exported and found defective/damaged or otherwise unfit for use may be replaced free of charge by the exporter and such goods shall be allowed clearance by Customs authorities, provided that replacement goods are not mentioned as restricted items for exports in ITC (HS).

Export of Repaired Goods

(i) "Goods or parts thereof, except restricted under ITC (HS), on being exported and found defective, damaged or otherwise unfit for use may be imported for repair and subsequent re-export. Such goods shall be allowed clearance without an Authorisation and in accordance with customs notification.

(ii) However, re-export of such defective parts/spares by the Companies/firms and Original Equipment Manufacturers shall not be mandatory if they are imported exclusively for undertaking root cause analysis, testing and evaluation purpose."

Export of Spares

Warranty spares (whether indigenous or imported) of plant, equipment, machinery, automobiles or any other goods, [except those restricted under ITC (HS)] may be exported along with main equipment or subsequently but within contracted warranty period of such goods, subject to approval of RBI.

Private Bonded Warehouses for Exports

(a) Private bonded warehouses exclusively for exports may be set up in DTA as per terms and conditions of notifications issued by Department of Revenue.

(b) Such warehouses shall be entitled to procure goods from domestic manufacturers without payment of duty. Supplies made by a domestic supplier to such notified warehouses shall be treated as physical exports provided payments are made in free foreign exchange.

PAYMENTS AND RECEIPTS ON IMPORTS / EXPORTS

Denomination of Export Contracts

(a) All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency.

(b) However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan. Additionally, rupee payment through Vostro account must be against payment in free foreign currency by buyer in his non-resident bank account. Free foreign exchange remitted by buyer to his nonresident bank (after deducting bank service charges) on account of this transaction would be taken as export realization under export promotion schemes of FTP.

(c) Contracts (for which payments are received through Asian Clearing Union (ACU) shall be denominated in ACU Dollar. Central Government may relax provisions of this paragraph in appropriate cases. Export contracts and invoices can be denominated in Indian rupees against EXIM Bank/Government of India line of credit.

Export to Iran – Realisations in Indian Rupees to be eligible for FTP benefits / incentives

Notwithstanding the provisions contained in above para (a) above, export proceeds realized in Indian

Rupees against exports to Iran are permitted to avail exports benefits / incentives under the Foreign Trade Policy (2015-20), at par with export proceeds realized in freely convertible currency.

Non-Realisation of Export Proceeds

(a) If an exporter fails to realize export proceeds within time specified by RBI, he shall, without prejudice to any liability or penalty under any law in force, be liable to return all benefits / incentives availed against such exports and action in accordance with provisions of FT (D&R) Act, Rules and Orders made there under and FTP.

(b) In case an Exporter is unable to realise the export proceeds for reasons beyond his control (force-majeure), he may approach RBI for writing off the unrealised amount as per procedure laid down in para 2.87 of Handbook of Procedures.

(c) The payment realized through insurance cover, would be eligible for benefits under FTP. The procedure to be followed in such cases is laid down in para 2.85 of Handbook of Procedures.

EXPORT PROMOTION COUNCILS

Recognition of Export Promotion Councils (EPCs) to function as Registering Authority for issue of RCMC.

(a) Export Promotion Councils (EPCs) are organizations of exporters, set up with the objective to promote and develop Indian exports. Each Council is responsible for promotion of a particular group of products/ projects/services as given in Appendix 2T of AANF.

(b) EPCs are also eligible to function as Registering Authorities to issue Registration-cum-Membership Certificate (RCMC) to its members. The criteria for EPCs to be recognized as Registering Authorities for issue of RCMC to its members are detailed in para 2.92 of the Handbook of Procedures.

Registration-cum-Membership Certificate (RCMC)

Any person, applying for:

(a) An Authorisation to import/export (except items) listed as 'Restricted' items in ITC (HS)

Or

(b) Any other benefit or concession under FTP shall be required to furnish or upload on DGFT's website in the Importer Exporter Profile, the RCMC granted by competent authority in accordance with procedure specified in HBP, unless specifically exempted under FTP. Certificate of Registration as Exporter of Spices (CRES) issued by Spices Board shall be treated as Registration-Cum-Membership Certificate (RCMC) for the purposes under this Policy.

POLICY INTERPRETATION AND RELAXATIONS:

Interpretation of Policy

(a) The decision of DGFT shall be final and binding on all matters relating to interpretation of Policy, or provision in Handbook of Procedures, Appendices and Aayat Niryat Forms or classification of any item for import / export in the ITC (HS).

(b) A Policy Interpretation Committee (PIC) may be constituted to aid and advise DGFT. The composition of the PIC would be as follows:

(i) DGFT: Chairman

(ii) All Additional DGFTs in Headquarters : Members

(iii) All Joint DGFTs in Headquarters looking after Policy matters : Members

(iv) Joint DGFT (PRC/PIC) : Member Secretary

(v) Any other person / representative of the concerned Ministry / Department, to be co-opted by the Chairman.

Exemption from Policy/ Procedures

DGFT may in public interest pass such orders or grant such exemption, relaxation or relief, as he may deem fit and proper, on grounds of genuine hardship and adverse impact on trade to any person or class or category of persons from any provision of FTP or any procedure. While granting such exemption, DGFT may impose such conditions as he may deem fit after consulting the Committees as under:

Sl. No.	Description	Committee
(a)	Fixation / modification of product norms	Norms Committees
(b)	Nexus with Capital Goods (CG) and benefits under under all schemes EPCG Schemes	EPCG Committee
(c)	All other issues	Policy Relaxation Committee (PRC)

Personal Hearing by DGFT for Grievance Redressal

(a) Government is committed to easy and speedy redressal of grievances from Trade and Industry. Provision of FTP provides for relaxation of Policy and Procedures on grounds of genuine hardship and adverse impact on trade. DGFT may consider request for relaxation after consulting concerned Norms Committee, EPCG Committee or Policy Relaxation Committee (PRC).

(b) As a last resort to redress grievances of Importers/ Exporters, DGFT may provide an opportunity for Personal Hearing (PH) before PRC. For such PH, a specific request along with the prescribed application fee has to be made to DG, if following conditions are satisfied:

(i) If an importer/exporter is aggrieved by any decision taken by Policy Relaxation Committee (PRC), or a decision/order by any authority in the Directorate General of Foreign Trade and

(ii) A request for review before the said Committee or Authority has been filed.

(iii) Such Committee or Authority has considered the request for a review, and

(iv) The exporter / importer continues to be aggrieved.

(c) The decision conveyed in pursuance to the personal hearing shall be final and binding.

(d) The opportunity for Personal Hearing will not apply to a decision/order made in any proceeding, including an adjudication proceeding, whether at the original stage or at the appellate stage, under the relevant provisions of FT (D&R) Act, 1992, as amended from time to time.

Regularization of EO default and settlement of Customs duty and interest through Settlement Commission

With a view to providing assistance to firms who have defaulted under FTP for reasons beyond their control as also facilitating merger, acquisition and rehabilitation of sick units, it has been decided to empower Settlement Commission in Central Board of Excise and Customs to decide such cases also with effect from 01.04.2005.

SELF CERTIFICATION OF ORIGINATING GOODS

Approved Exporter Scheme for Self Certification of Certificate of Origin.

(i) Currently, Certificates of Origin under various Preferential Trade Agreements [PTA], Free Trade Agreements [FTAs], Comprehensive Economic Cooperation Agreements [CECA] and Comprehensive Economic Partnerships Agreements [CEPA] are issued by designated agencies as per Appendix 2B of Appendices and Aayat and Niryat Forms. A new optional system of self certification is being introduced with a view to reducing transaction cost.

(ii) The Manufacturers who are also Status Holders shall be eligible for Approved Exporter Scheme.

Approved Exporters will be entitled to self-certify their manufactured goods as originating from India with a view to qualifying for preferential treatment under different PTAs/FTAs/CECAs/CEPAs which are in operation. Self-certification will be permitted only for the goods that are manufactured as per the Industrial Entrepreneurial's Memorandum (IEM) / Industrial Licence (IL)/Letter of Intent (LOI) issued to manufacturers.

(iii) Status Holders will be recognized by DGFT as Approved Exporters for self-certification based on availability of required infrastructure, capacity and trained manpower as per the details in Para 2.109 of Handbook of Procedures 2015-20 read with Appendix 2F of Appendices & Aayaat Niryaat Forms.

(iv) The details of the Scheme, along with the penalty provisions, are provided in Appendix 2F of Appendices and Aayaat Niryaat Forms and will come into effect only when India incorporates the scheme into a specific agreement with its partner/s and the same is appropriately notified by DGFT.

5.3 EXPORTS FROM INDIA SCHEMES

Objective

The objective of schemes under this heading is to provide rewards to exporters to offset infrastructural inefficiencies and associated costs involved and to provide exporters a level playing field.

Exports from India Schemes

There shall be following two schemes for exports of Merchandise and Services respectively:

(i) Merchandise Exports from India Scheme (MEIS).

(ii) Service Exports from India Scheme (SEIS).

Nature of Rewards

Duty Credit Scrips shall be granted as rewards under MEIS and SEIS. The Duty Credit Scrips and goods imported / domestically procured against them shall be freely transferable. The Duty Credit Scrips can be used for :

(i) Payment of Customs Duties for import of inputs or goods, except certain items.

(ii) Payment of excise duties on domestic procurement of inputs or goods, including capital goods as per DoR notification.

(iii) Payment of service tax on procurement of services as per DoR notification.

(iv) Payment of Customs Duty and fee as per paragraph heading, "Facility of payment of custom duties in case of E.O. defaults and fee through duty credit scrip." of this Policy.

Merchandise Exports from India Scheme (MEIS)

Objective

Objective of Merchandise Exports from India Scheme (MEIS) is to offset infrastructural inefficiencies and associated costs involved in export of goods/products, which are produced/manufactured in India, especially those having high export intensity, employment potential and thereby enhancing India's export competitiveness.

Entitlement under MEIS

Exports of notified goods/products with ITC[HS] code, to notified markets as listed in Appendix 3B, shall be rewarded under MEIS. Particular Appendix [3B of Appendices and Aayat Niryat Forms or AANF] lists the rate(s) of rewards on various notified products [ITC (HS) code wise]. The basis of calculation of

reward would be on realised FOB value of exports in free foreign exchange, or on FOB value of exports as given in the Shipping Bills in free foreign exchange, whichever is less, unless otherwise specified.

Export of goods through courier or foreign post offices using e-Commerce

(i) Exports of goods through courier or foreign post office using e-commerce, as notified in Appendix 3C of AANF, of FOB value upto ₹ 25,000 per consignment shall be entitled for rewards under MEIS.

(ii) If the value of exports using e-commerce platform is more than ₹ 25,000 per consignment then MEIS reward would be limited to FOB value of ₹ 25,000 only.

(iii) Such goods can be exported in manual mode through Foreign Post Offices at New Delhi, Mumbai and Chennai.

(iv) Export of such goods under Courier Regulations shall be allowed manually on pilot basis through Airports at Delhi, Mumbai and Chennai as per appropriate amendments in regulations to be made by Department of Revenue. Department of Revenue shall fast track the implementation of EDI mode at courier terminals.

Ineligible categories under MEIS

The following exports categories /sectors shall be ineligible for Duty Credit Scrip entitlement under MEIS

(i) EOUs / EHTPs / BTPs/ STPs who are availing direct tax benefits / exemption.

(ii) Supplies made from DTA units to SEZ units

(iii) Export of imported goods covered under paragraph heading, 'Import for Export' of FTP;

(iv) Exports through trans-shipment, meaning thereby exports that are originating in third country but trans shipped through India;

(v) Deemed Exports;

(vi) SEZ/EOU/EHTP/BPT/FTWZ products exported through DTA units;

(vii) Items, which are restricted or prohibited for export under Schedule-2 of Export Policy in ITC (HS), unless specifically notified in Appendix 3B of AANF.

(viii) Service Export.

(ix) Red sanders and beach sand.

(x) Export products which are subject to Minimum export price or export duty.

(xi) Diamond Gold, Silver, Platinum, other precious metal in any form including plain and studded jewellery and other precious and semi-precious stones.

(xii) Ores and concentrates of all types and in all formations.

(xiii) Cereals of all types.

(xiv) Sugar of all types and all forms.

(xv) Crude / petroleum oil and crude / primary and base products of all types and all formulations.

(xvi) Export of milk and milk products.

(xvii) Export of Meat and Meat Products.

(xviii) Products wherein precious metal/diamond are used or Articles which are studded with precious stones.

(xix) Exports made by units in FTWZ.

SERVICE EXPORTS FROM INDIA SCHEME (SEIS)

Objective

Objective of Service Exports from India Scheme (SEIS) is to encourage export of notified Services from India.

Eligibility

(a) Service Providers of notified services, located in India, shall be rewarded under SEIS, subject to conditions as may be notified. Only Services rendered in the manner provided under this policy shall be eligible. The notified services and rates of rewards are listed in Appendix 3D of AANF.

(b) Such service provider should have minimum net free foreign exchange earnings of US$15,000 in preceding financial year to be eligible for Duty Credit Scrip. For Individual Service Providers and sole proprietorship, such minimum net free foreign exchange earnings criteria would be US$10,000 in preceding financial year.

(c) Payment in Indian Rupees for service charges earned on specified services, shall be treated as receipt in deemed foreign exchange as per guidelines of Reserve Bank of India. The list of such services is indicated in Appendix 3E of AANF.

(d) Net Foreign exchange earnings for the scheme are defined as under:

Net Foreign Exchange = Gross Earnings of Foreign Exchange minus Total expenses / payment / remittances of Foreign Exchange by the IEC holder, relating to service sector in the Financial year.

(e) If the IEC holder is a manufacturer of goods as well as service provider, then the foreign exchange earnings and Total expenses / payment / remittances shall be taken into account for service sector only.

(f) In order to claim reward under the scheme, Service provider shall have to have an active IEC at the time of rendering such services for which rewards are claimed.

Ineligible categories under SEIS

(1) Foreign exchange remittances other than those earned for rendering of notified services would not be counted for entitlement. Thus, other sources of foreign exchange earnings such as equity or debt participation, donations, receipts of repayment of loans etc. and any other inflow of foreign exchange, unrelated to rendering of service, would be ineligible.

(2) Following shall not be taken into account for calculation of entitlement under the scheme

(a) Foreign Exchange remittances:

I. Related to Financial Services Sector

(i) Raising of all types of foreign currency Loans;

(ii) Export proceeds realization of clients;

(iii) Issuance of Foreign Equity through ADRs / GDRs or other similar instruments;

(iv) Issuance of foreign currency Bonds;

(v) Sale of securities and other financial instruments;

(vi) Other receivables not connected with services rendered by financial institutions; and

II. Earned through contract/regular employment abroad (e.g. labour remittances);

(b) Payments for services received from EEFC Account;

(c) Foreign exchange turnover by Healthcare Institutions like equity participation, donations etc.

(d) Foreign exchange turnover by Educational Institutions like equity participation, donations etc.

(e) Export turnover relating to services of units operating under SEZ / EOU / EHTP / STPI / BTP Schemes or supplies of services made to such units;

(f) Clubbing of turnover of services rendered by SEZ / EOU /EHTP / STPI / BTP units with turnover of DTA Service Providers;

(g) Exports of Goods.

(h) Foreign Exchange earnings for services provided by Airlines, Shipping lines service providers plying from any foreign country X to any foreign country Y routes not touching India at all.

(i) Service providers in Telecom Sector.

Entitlement under SEIS

Service Providers of eligible services shall be entitled to Duty Credit Scrip at notified rates (as given in Appendix 3D of AANF) on net foreign exchange earned.

Remittances through Credit Card and other instruments for MEIS and SEIS

Free Foreign Exchange earned through international credit cards and other instruments, as permitted by RBI shall also be taken into account for computation of value of exports.

Effective date of schemes (MEIS and SEIS)

The schemes shall come into force with effect from the date of notification of this Policy, i.e. the rewards under MEIS/SEIS shall be admissible for exports made/services rendered on or after the date of notification of this Policy.

Special Provisions

(a) Government reserves the right in public interest, to specify export products or services or markets, which shall not be eligible for computation of entitlement of duty credit scrip.

(b) Government reserves the right to impose restriction / change the rate/ceiling on Duty Credit Scrip under this chapter.

(c) Government may also notify goods in Appendix 3A of AANF which shall not be allowed for debiting through Duty Credit Scrips in case of import.

(d) Government may prescribe value cap of any kind for a product(s) or limit total reward per IEC holder under this chapter at any time.

COMMON PROVISIONS FOR EXPORTS FROM INDIA SCHEMES (MEIS AND SEIS)

Transitional Arrangement

For the goods exported or services rendered upto the date of notification of this Policy, which were otherwise eligible for issuance of scrips under erstwhile Chapter 3 of the earlier Foreign Trade Policy(ies) and scrip is applied / issued on or after notification of this Policy against such export of goods or services rendered, the then prevailing policy and procedure regarding eligibility, entitlement, transferability, usage of scrip and any other condition in force at the time of export of goods or rendering of the services, shall be applicable to such scrips.

CENVAT/ Drawback

Additional Customs duty/excise duty/Service Tax paid in cash or through debit under Duty Credit scrip shall be adjusted as CENVAT Credit or Duty Drawback as per DoR rules or notifications. Basic Custom duty paid in cash or through debit under Duty Credit scrip shall be adjusted for Duty Drawback as per DoR rules or notifications.

Import under lease financing

Utilization of Duty Credit Scrip shall be permitted for payment of duty in case of import of capital goods under lease financing in terms of provision in paragraph heading, "Import under Lease Financing" of FTP.

Transfer of export performance

(a) Transfer of export performance from one IEC holder to another IEC holder shall not be permitted. Thus, a shipping bill containing name of applicant shall be counted in export performance / turnover of applicant only if export proceeds from overseas are realized in applicant's bank account and this shall be evidenced from e - BRC / FIRC.

(b) However, MEIS, rewards can be claimed either by the supporting manufacturer (along with disclaimer from the company / firm who has realized the foreign exchange directly from overseas) or by the company/ firm who has realized the foreign exchange directly from overseas.

Facility of payment of custom duties in case of E.O. defaults and fee through duty credit scrips

(a) Duty Credit Scrip can be utilised / debited for payment of Custom Duties in case of EO defaults for Authorizations issued under this Policy. Such utilization /usage shall be in respect of those goods which are permitted to be imported under the respective reward schemes. However, penalty / interest shall be required to be paid in cash.

(b) Duty credit scrips can also be used for payment of composition fee under FTP, for payment of application fee under FTP, if any and for payment of value shortfall in EO under para 4.49 of HBP 2015-20.

Risk Management System

(a) A Risk Management System shall be in operation whereby every month Computer system in DGFT Headquarters, on random basis, will select 10% of cases for each RA where scrips have already been issued, under each scheme. RA in turn may call for original documents in all such selected cases for further examination in detail. In case any discrepancy and/ or over claim is found on such examination, the applicant shall be under obligation to rectify such discrepancy and/or refund over claim in cash with interest at the rate prescribed under section 28 A A of the Customs Act 1962, from the date of issue of scrip in the relevant Head of Account of Customs within one month. The original holder of scrip, however, may refund such over claim by surrendering the same scrip whether partially utilized or fully unutilized, without interest.

(b) Regional Authority may ask for original proof of landing certificate, annexures attached to ANFs or any other document, which has been uploaded digitally at any time within three years from the date of issue of scrip. Failure to submit such documents in original would make applicant liable to refund the reward granted along with interest at the rate prescribed under section 28 A A of the Customs Act 1962, from the date of issuance of scrip. It would be the responsibility of applicant to maintain such documents, certificate etc. for a period of at least three years from the date of issuance of scrips.

Status Holder

(a) Status Holders are business leaders who have excelled in international trade and have successfully contributed to country's foreign trade. Status Holders are expected to not only contribute towards India's exports but also provide guidance and handholding to new entrepreneurs.

(b) All exporters of goods, services and technology having an import-export code (IEC) number shall be eligible for recognition as a status holder. Status recognition depends upon export performance. An applicant shall be categorized as status holder upon achieving export performance during current and previous two financial years. The export performance will be counted on the basis of FOB value of export earnings in free foreign exchange.

(c) For deemed export, FOR value of exports in Indian Rupees shall be converted in US$ at the exchange rate notified by CBEC, as applicable on 1st April of each Financial Year.

(d) For granting status, export performance is necessary in at least two out of three years.

Status Category

Status Category	Export Performance FOB / FOR (as converted) Value (in US $ million)
One Star Export House	3
Two Star Export House	25
Three Star Export House	100
Four Star Export House	500
Five Star Export House	2000

Grant of double weightage

(a) The exports by IEC holders under the following categories shall be granted double weightage for calculation of export performance for grant of status.

  (i) Micro, Small & Medium Enterprises (MSME) as defined in Micro, Small & Medium Enterprises Development (MSMED) Act 2006.

  (ii) Manufacturing units having ISO/BIS.

  (iii) Units located in North Eastern States including Sikkim and Jammu & Kashmir.

  (iv) Units located in Agri Export Zones.

(b) Double Weightage shall be available for grant of One Star Export House Status category only. Such benefit of double weightage shall not be admissible for grant of status recognition of other categories namely Two Star Export House, Three Star Export House, Four Star export House and Five Star Export House.

(c) A shipment can get double weightage only once in any one of above categories.

Other conditions for grant of status

(a) Export performance of one IEC holder shall not be permitted to be transferred to another IEC holder. Hence, calculation of exports performance based on disclaimer shall not be allowed.

(b) Exports made on re-export basis shall not be counted for recognition.

(c) Export of items under authorization, including SCOMET items, would be included for calculation of export performance.

Privileges of Status Holders

A Status Holder shall be eligible for privileges as under:

(a) Authorisation and Customs Clearances for both imports and exports may be granted on self-declaration basis;

(b) Input-Output norms may be fixed on priority within 60 days by the Norms Committee;

(c) Exemption from furnishing of Bank Guarantee for Schemes under FTP, unless specified otherwise anywhere in FTP or HBP;

(d) Exemption from compulsory negotiation of documents through banks. Remittance/receipts, however, would be received through banking channels;

(e) Two star and above Export houses shall be permitted to establish Export Warehouses as per Department of Revenue guidelines.

(f) Three Star and above Export House shall be entitled to get benefit of Accredited Clients Programme (ACP) as per the guidelines of CBEC (website: http://cbec.gov.in).

(g) The status holders would be entitled to preferential treatment and priority in handling of their consignments by the concerned agencies.

(h) Manufacturers who are also status holders (Three Star/Four Star/Five Star) will be enabled to self-certify their manufactured goods (as per their IEM/IL/LOI) as originating from India with a view to qualify for preferential treatment under different preferential trading agreements (PTA), Free Trade Agreements (FTAs), Comprehensive Economic Cooperation Agreements (CECA) and Comprehensive Economic Partnership Agreements (CEPA). Subsequently, the scheme may be extended to remaining Status Holders.

(i) Manufacturer exporters who are also Status Holders shall be eligible to self-certify their goods as originating from India as per para 2.108 (d) of Hand Book of Procedures.

(j) Status holders shall be entitled to export freely exportable items on free of cost basis for export promotion subject to an annual limit of ₹ 10 lakh or 2% of average annual export realization during preceding three licencing years whichever is higher.

5.4 DUTY EXEMPTION / REMISSION SCHEMES

Objective

Schemes under this Chapter enable duty free import of inputs for export production, including replenishment of input or duty remission.

Schemes

(a) Duty Exemption Schemes.

The Duty Exemption schemes consist of the following:

(i) Advance Authorisation (AA) (which will include Advance Authorisation for Annual Requirement).

(ii) Duty Free Import Authorisation (DFIA).

(b) Duty Remission Scheme.

Duty Drawback (DBK) Scheme, administered by Department of Revenue.

Applicability of Policy & Procedures

Authorisation under this Chapter shall be issued in accordance with the Policy and Procedures in force on the date of issue of the Authorisation.

Advance Authorisation

(a) Advance Authorisation is issued to allow duty free import of input, which is physically incorporated in export product (making normal allowance for wastage). In addition, fuel, oil, catalyst which is consumed / utilised in the process of production of export product, may also be allowed.

(b) Advance Authorisation is issued for inputs in relation to resultant product, on the following basis:

(i) As per Standard Input Output Norms (SION) notified (available in Hand Book of Procedures); OR

(ii) On the basis of self declaration as per paragraph 4.07 of Handbook of Procedures.

Advance Authorisation for Spices

Duty free import of spices covered under Chapter-9 of ITC (HS) shall be permitted only for activities like crushing / grinding / sterilization / manufacture of oils or oleoresins. Authorisation shall not be available for simply cleaning, grading, re-packing etc.

Eligible Applicant / Export / Supply

(a) Advance Authorisation can be issued either to a manufacturer exporter or merchant exporter tied to supporting manufacturer.

(b) Advance Authorisation for pharmaceutical products manufactured through Non-Infringing (NI) process (as indicated in paragraph 4.18 of Handbook of Procedures) shall be issued to manufacturer exporter only.

(c) Advance Authorisation shall be issued for:

  (i) Physical export (including export to SEZ);

  (ii) Intermediate supply; and/or

  (iii) Supply of goods to the categories mentioned in paragraph named, "Categories of Supply" with point (b), (c), (e), (f), (g) and (h) of this FTP.

  (iv) Supply of 'stores' on board of foreign going vessel / aircraft, subject to condition that there is specific Standard Input Output Norms in respect of item supplied.

Advance Authorisation for Annual Requirement

(i) Advance Authorisation for Annual Requirement shall only be issued for items notified in Standard Input Output Norms (SION), and it shall not be available in case of adhoc norms under (b)(ii) of paragraph heading, "Advance Authorisation" of FTP.

(ii) Advance Authorisation for Annual Requirement shall also not be available in respect of SION where any item of input appears in Appendix 4-J of AANF.

Eligibility Condition to obtain Advance Authorisation for Annual Requirement

(i) Exporters having past export performance (in at least preceding two financial years) shall be entitled for Advance Authorisation for Annual requirement.

(ii) Entitlement in terms of CIF value of imports shall be upto 300% of the FOB value of physical export and / or FOR value of deemed export in preceding financial year or ₹ 1 crore, whichever is higher.

Value Addition

Value Addition for the purpose of this Chapter (except for Gems and Jewellery sector for which value addition is prescribed in different heading of this study note shall be:-

$$VA = \frac{A - B}{B} \times 100, \text{ where}$$

A = FOB value of export realized / FOR value of supply received.

B = CIF value of inputs covered by Authorisation, plus value of any other input used on which benefit of DBK is claimed or intended to be claimed.

Minimum Value Addition

(i) Minimum value addition required to be achieved under Advance Authorisation is 15%.

(ii) Export Products where value addition could be less than 15% are given in Appendix 4D of AANF.

(iii) For physical exports for which payments are not received in freely convertible currency, value addition shall be as specified in Appendix 4C of AANF.

(iv) Minimum value addition for Gems & Jewellery Sector is given in paragraph 4.61 of Handbook of Procedures.

(v) In case of Tea, minimum value addition shall be 50%.

Import of Mandatory Spares

Import of mandatory spares which are required to be exported / supplied with the resultant product shall be permitted duty free to the extent of 10% of CIF value of Authorisation.

Ineligible categories of import on Self Declaration basis

(a) Import of following products shall not be permissible on self-declaration basis:

(i) All vegetable / edible oils classified under Chapter-15 and all types of oilseeds classified under Chapter-12 of ITC (HS) book;

(ii) All types of cereals classified under Chapter–10 of ITC (HS) book;

(iii) All Spices other than light black pepper (light berries) having a basic customs duty of more than 30%, classified under Chapter-9 and 12 of ITC (HS) book;

(iv) All types of fruits/ vegetables having a duty of more than 30%, classified under Chapter-7 and Chapter-8 of ITC (HS) book;

(v) Horn, hoof and any other organ of animal;

(vi) Honey;

(vii) Rough Marble Blocks/Slabs; and

(viii) Rough Granite.

(ix) Vitamins except for use in pharmaceutical industry.

(b) For export of perfumes, perfumery compounds and various feed ingredients containing vitamins, no Authorisation shall be issued by Regional Authority under paragraph 4.07 of Handbook of Procedures and applicants shall be required to apply under paragraph 4.06 of Hand Book of Procedures to the Norms Committee.

(c) Where export and/or import of biotechnology items and related products are involved, Authorisation under paragraph 4.07 of Handbook of Procedures shall be issued by Regional Authority only on submission of a "No Objection Certificate" from Department of Biotechnology.

Accounting of Input

(i) Wherever SION permits use of either (a) a generic input or (b) alternative input, unless the name of the specific input [which has been used in manufacturing the export product] gets indicated / endorsed in the relevant shipping bill and these inputs, so endorsed, match the description in the relevant bill of entry, the concerned Authorisation will not be redeemed. In other words, the name/ description of the input used (or to be used) in the Authorisation must match exactly with the name/description endorsed in the shipping bill.

(ii) In addition, if in any SION, a single quantity has been indicated against a number of inputs (more than one input), then quantities of such inputs to be permitted for import shall be in proportion to the quantity of these inputs actually used/consumed in production, within overall quantity against such group of inputs. Proportion of these inputs actually used/consumed in production of export product shall be clearly indicated in shipping bills.

(iii) At the time of discharge of export obligation (issue of EODC) or at the time of redemption, Regional Authority shall allow only those inputs which have been specifically indicated in the shipping bill.

(iv) The above provisions will also be applicable for supplies to SEZs and supplies made under Deemed export. Details as given above will have to be indicated in the relevant Bill of Export, ARE-3, Central Excise certified Invoice / import document / document for domestic procurement/supply.

Pre-import condition in certain cases

(i) DGFT may, by Notification, impose pre-import condition for inputs under this Chapter.

(ii) Import items subject to pre-import condition are listed in Appendix 4-J of AANF or will be as indicated in Standard Input Output Norms (SION).

(iii) Import of drugs from unregistered sources shall have pre-import condition.

Details of Duties exempted

Imports under Advance Authorisation are exempted from payment of Basic Customs Duty, Additional Customs Duty, Education Cess, Anti-dumping Duty, Safeguard Duty and Transition Product Specific Safeguard Duty, wherever applicable. However, Import against supplies covered under previous paragraph with point (c), (d) and (g) of FTP will not be exempted from payment of applicable Anti-dumping Duty, Safeguard Duty and Transition Product Specific Safeguard Duty, if any.

Admissibility of Drawback

Drawback as per rate determined and fixed by Central Excise authority shall be available for duty paid imported or indigenous inputs (not specified in the norms) used in the export product. For this purpose, applicant shall indicate clearly details of duty paid input in the application for Advance Authorisation. As per details mentioned in the application, Regional Authority shall also clearly endorse details of such duty paid inputs in the condition sheet of the Advance Authorisation.

Actual User Condition for Advance Authorisation

(i) Advance Authorisation and / or material imported under Advance Authorisation shall be subject to 'Actual User' condition. The same shall not be transferable even after completion of export obligation. However, Authorisation holder will have option to dispose of product manufactured out of duty free input once export obligation is completed.

(ii) In case where CENVAT credit facility on input has been availed for the exported goods, even after completion of export obligation, the goods imported against such Advance Authorisation shall be utilized only in the manufacture of dutiable goods whether within the same factory or outside (by a supporting manufacturer). For this, the Authorisation holder shall produce a certificate from either the jurisdictional Central Excise Authority or Chartered Accountant, at the option of the exporter, at the time of filing application for Export Obligation Discharge Certificate to Regional Authority concerned.

(iii) Waste / scrap arising out of manufacturing process, as allowed, can be disposed off on payment of applicable duty even before fulfillment of export obligation.

Validity Period for Import

(i) Validity period for import of Advance Authorisation shall be 12 months from the date of issue of Authorisation.

(ii) Advance Authorisation for Deemed Export shall be co-terminus with contracted duration of project execution or 12 months from the date of issue of Authorisation, whichever is more.

Importability / Exportability of items that are Prohibited/Restricted/ STE

(i) No export or import of an item shall be allowed under Advance Authorisation / DFIA if the item is prohibited for exports or imports respectively. Export of a prohibited item may be allowed under Advance Authorisation provided it is separately so notified, subject to the conditions given therein.

(ii) Items reserved for imports by STEs cannot be imported against Advance Authorisation / DFIA.

However those items can be procured from STEs against ARO or Invalidation letter. STEs are also allowed to sell goods on High Sea Sale basis to holders of Advance Authorisation / DFIA holder. STEs are also permitted to issue "No Objection Certificate (NOC)" for import by Advance Authorisation / DFIA holder. Authorisation Holder would be required to file Quarterly Returns of imports effected against such NOC to concerned STE and STE would submit half-yearly import figures of such imports to concerned administrative Department for monitoring with a copy endorsed to DGFT.

(iii) Items reserved for export by STE can be exported under Advance Authorisation / DFIA only after obtaining a 'No Objection Certificate' from the concerned STE.

(iv) Import of restricted items shall be allowed under Advance Authorisation/ DFIA.

(v) Export of restricted / SCOMET items however, shall be subject to all conditionalities or requirements of export authorisation or permission, as may be required, under Schedule 2 of ITC (HS).

Free of Cost Supply by Foreign Buyer

Advance Authorisation shall also be available where some or all inputs are supplied free of cost to exporter by foreign buyer. In such cases, notional value of free of cost input shall be added in the CIF value of import and FOB value of export for the purpose of computation of value addition. However, realization of export proceeds will be equivalent to an amount excluding notional value of such input.

Domestic Sourcing of Inputs

(i) Holder of an Advance Authorisation / Duty Free Import Authorisation can procure inputs from indigenous supplier/ State Trading Enterprise in lieu of direct import. Such procurement can be against Advance Release Order (ARO), Invalidation Letter, Back-to-Back Inland Letter of Credit.

(ii) When domestic supplier intends to obtain duty free material for inputs through Advance Authorisation for supplying resultant product to another Advance Authorisation / DFIA / EPCG Authorisation, Regional Authority shall issue Invalidation Letter.

(iii) Regional Authority shall issue Advance Release Order if the domestic supplier intends to seek refund of duty through Deemed Exports mechanism.

(iv) Regional Authority may issue Advance Release Order or Invalidation Letter at the time of issue of Authorisation simultaneously or subsequently.

(v) Advance Authorisation holder under DTA can procure inputs from EOU / EHTP / BTP / STP / SEZ units without obtaining Advance Release Order or Invalidation Letter.

(vi) Duty Free Import Authorisation holder shall also be eligible for Advance Release Order / Invalidation Letter facility.

(vii) Validity of Advance Release Order / Invalidation Letter shall be co-terminous with validity of Authorisation.

Currency for Realisation of Export Proceeds

(i) Export proceeds shall be realized in freely convertible currency except otherwise specified. Provisions regarding realization of export proceeds are given this study note.

(ii) Export to Rupee Payment Area (RPA) (for which payments are not received in freely convertible currency) shall be subject to minimum value addition as specified in Appendix-4C of AANF.

(iii) Export to SEZ Units shall be taken into account for discharge of export obligation provided payment is realised from Foreign Currency Account of the SEZ unit.

(iv) Export to SEZ Developers / Co-developers can also be taken into account for discharge of export obligation even if payment is realised in Indian Rupees.

(v) Authorisation holder needs to file Bill of Export for export to SEZ unit / developer / co-developer in accordance with the procedures given in SEZ Rules, 2006.

Export Obligation

(i) Period for fulfilment of export obligation under Advance Authorisation shall be 18 months from the date of issue of Authorisation or as notified by DGFT.

(ii) In cases of supplies to turnkey projects in India under deemed export category or turnkey projects abroad, the Export Obligation period shall be co-terminus with contracted duration of the project execution or 18 months whichever is more.

(iii) Export Obligation for items falling in categories of defence, military store, aerospace and nuclear energy shall be 24 months from the date of issue of authorization or co-terminus with contracted duration of the export order whichever is more.

(iv) Export Obligation Period for specified inputs, from the date of clearance of each consignment, is given in Appendix 4-J of AANF.

Export Obligation Period (EOP) Extension for units under BIFR/ Rehabilitation.

A company holding Advance Authorisation and registered with BIFR / Rehabilitation Department of State Government or any firm / company acquiring a unit holding Advance Authorisation which is under BIFR / Rehabilitation, may be permitted export obligation extension for the Advance Authorisation(s) held by the acquired unit, as per rehabilitation package prepared by operating agency and approved by BIFR / Rehabilitation Department of State Government. If time-period upto which EO extension is to be granted is not specifically mentioned in the BIFR order, EO extension of two years from the date of expiry of EOP (including extended period) or the date of BIFR order, whichever is later, shall be granted without payment of composition fee.

Re-import of exported goods under Duty Exemption / Remission Scheme

Goods exported under Advance Authorisation / Duty Free Import Authorisation may be re-imported in same or substantially same form subject to such conditions as may be specified by Department of Revenue. Authorisation holder shall also inform about such re-importation to the Regional Authority which had issued the Authorisation within one month from date of re-import.

DUTY FREE IMPORT AUTHORISATION SCHEME (DFIA)

DFIA Scheme

Duty Free Import Authorisation is issued to allow duty free import of inputs. In addition, import of oil and catalyst which is consumed / utilised in the process of production of export product, may also be allowed.

Duties Exempted and Admissibility of Cenvat and Drawback

(i) Duty Free Import Authorisation shall be exempted only from payment of Basic Customs Duty.

(ii) Additional customs duty/excise duty, being not exempt, shall be adjusted as CENVAT credit as per DoR rules.

(iii) Drawback as per rate determined and fixed by Central Excise authority shall be available for duty paid inputs, whether imported or indigenous, used in the export product. However, in case such drawback is claimed for inputs not specified in SION, the applicant should have indicated clearly details of such duty paid inputs also in the application for Duty Free Import Authorization, and as per the details mentioned in the application, the Regional Authority should also have clearly endorsed details of such duty paid inputs in the condition sheet of the Duty Free Import Authorization.

Eligibility

(i) Duty Free Import Authorisation shall be issued on post export basis for products for which Standard Input Output Norms have been notified.

(ii) Merchant Exporter shall be required to mention name and address of supporting manufacturer of

the export product on the export document viz. Shipping Bill / Airway Bill / Bill of Export / ARE-1 / ARE-3.

(iii) Application is to be filed with concerned Regional Authority before effecting export under Duty Free Import Authorisation.

Minimum Value Addition

Minimum value addition of 20% shall be required to be achieved. For items where higher value addition has been prescribed under Advance Authorisation in Appendix 4C of AANF, the same value addition shall be applicable for Duty Free Import Authorisation also.

Validity & Transferability of DFIA

(i) Applicant shall file online application to Regional Authority concerned before starting export under DFIA.

(ii) Export shall be completed within 12 months from the date of online filing of application and generation of file number.

(iii) While doing export/supply, applicant shall indicate file number on the export documents viz. Shipping Bill / Airway Bill/ Bill of Export / ARE-1 / ARE-3, Central Excise certified Invoice.

(iv) After completion of exports and realization of proceeds, request for issuance of transferable Duty Free Import Authorisation may be made to concerned Regional Authority within a period of twelve months from the date of export or six months (or additional time allowed by RBI for realization) from the date of realization of export proceeds, whichever is later.

(v) Applicant shall be allowed to file application beyond 24 months from the date of generation of file number as per paragraph 9.03 of Hand Book of Procedures.

(vi) Separate DFIA shall be issued for each SION and each port.

(vii) Exports under DFIA shall be made from from a single port as mentioned in paragraph 4.37 of Handbook of Procedures.

(viii) No Duty Free Import Authorisation shall be issued for an export product where SION prescribes 'Actual User' condition for any input.

(ix) Regional Authority shall issue transferable DFIA with a validity of 12 months from the date of issue. No further revalidation shall be granted by Regional Authority.

Sensitive Items under Duty Free Import

Authorisation

(a) In respect of resultant products requiring following inputs, exporter shall be required to provide declaration with regard to technical characteristics, quality and specification in Shipping Bill:

"Alloy steel including Stainless Steel, Copper Alloy, Synthetic Rubber, Bearings, Solvent, Perfumes / Essential Oil/ Aromatic Chemicals, Surfactants, Relevant Fabrics, marble, Articles made of polypropylene, Articles made of Paper and Paper Board, Insecticides, Lead Ingots, Zinc Ingots, Citric Acid, Relevant Glass fibre reinforcement (Glass fibre, Chopped / Stranded Mat, Roving Woven Surfacing Mat), Relevant Synthetic Resin (unsaturated polyester resin, Epoxy Resin, Vinyl Ester Resin, Hydroxy Ethyl Cellulose), Lining Material".

(b) While issuing Duty Free Import Authorisation, Regional Authority shall mention technical characteristics, quality and specification in respect of above inputs in the Authorisation.

SCHEMES FOR EXPORTERS OF GEMS AND JEWELLERY

Import of Input

Exporters of gems and Jewellery can import / procure duty free input for manufacture of export product.

Items of Export

Following items, if exported, would be eligible:

(i) Gold jewellery, including partly processed jewellery and articles including medallions and coins (excluding legal tender coins), whether plain or studded, containing gold of 8 carats and above;

(ii) Silver jewellery including partly processed jewellery, silverware, silver strips and articles including medallions and coins (excluding legal tender coins and any engineering goods) containing more than 50% silver by weight;

(iii) Platinum jewellery including partly processed jewellery and articles including medallions and coins (excluding legal tender coins and any engineering goods) containing more than 50% platinum by weight.

Schemes

The schemes are as follows:

(i) Advance Procurement / Replenishment of Precious Metals from Nominated Agencies;

(ii) Replenishment Authorisation for Gems;

(iii) Replenishment Authorisation for Consumables;

(iv) Advance Authorisation for Precious Metals.

Advance Procurement/ Replenishment of Precious Metals from Nominated Agencies

(i) Exporter of gold / silver / platinum jewellery and articles thereof including mountings and findings may obtain gold / silver / platinum as an input for export product from Nominated Agency, in advance or as replenishment after export in accordance with the procedure specified in this behalf.

(ii) The export would be subject to wastage norms and minimum value addition as prescribed in paragraph 4.60 and 4.61 respectively in the Handbook of Procedures.

Replenishment Authorisation for Gems

(i) Exporter may obtain Replenishment Authorisation for Gems from Regional Authority in accordance with procedure specified in Handbook of Procedures.

(ii) Replenishment Authorisation for Gems may be issued against export including that made against supply by Nominated Agency and against supply by foreign buyer.

(iii) In case of plain or studded gold / silver / platinum jewellery and articles, value of such Authorisation shall be determined with reference to realisation in excess of prescribed minimum value addition. Replenishment Authorisation for Gems shall be freely transferable.

(iv) Replenishment Rate and item of import will be as prescribed in Appendix 4G of AANF.

Replenishment Authorisation for Consumables

(i) Replenishment authorization for duty free import of Consumables, Tools and other items namely, Tags and labels, Security censor on card, Staple wire, Poly bag (as notified by Customs) for Jewellery made out of precious metals (other than Gold & Platinum) equal to 2% and for Cut and Polished Diamonds and Jewellery made out of Gold and Platinum equal to 1% of FOB value of exports of the preceding year, may be issued on production of Chartered Accountant Certificate indicating the export performance. However, in case of Rhodium finished Silver jewellery, entitlement will be 3% of FOB value of exports of such jewellery. This Authorisation shall be non-transferable and subject to actual user condition.

(ii) Application for import of consumables as given above shall be filed online to the concerned Regional Authority in ANF 4H of AANF.

Advance Authorisation for Precious Metals.

(a) Advance Authorisation shall be granted on pre-import basis with 'Actual User' condition for duty free import of:

(i) Gold of fineness not less than 0.995 and mountings, sockets, frames and findings of 8 carats and above;

(ii) Silver of fineness not less than 0.995 and mountings, sockets, frames and findings containing more than 50% silver by weight;

(iii) Platinum of fineness not less than 0.900 and mountings, sockets, frames and findings containing more than 50% platinum by weight.

(b) Advance Authorization shall carry an export obligation which shall be fulfilled as per procedure indicated in Chapter 4 of Handbook of Procedures.

(c) Value Addition shall be as per previous paragraph of this study note and 4.61 of Handbook of Procedures.

Value Addition

Minimum Value Addition norms for gems and jewellery sector are given in paragraph 4.61 of Handbook of Procedures. It would be calculated as under:

A - B

VA = x 100, where

B

A = FOB value of the export realised / FOR value of supply received.

B = Value of inputs (including domestically procured) such as gold / silver / platinum content in export product plus admissible wastage along with value of other items such as gemstone etc. Wherever gold has been obtained on loan basis, value shall also include interest paid in free foreign exchange to foreign supplier.

Wastage Norms

Wastage or manufacturing loss for gold / silver / platinum jewellery shall be admissible as per paragraph 4.60 of Handbook of Procedures.

DFIA not available

Duty Free Import Authorisation scheme shall not be available for Gems and Jewellery sector.

Nominated Agencies

(i) Exporters may obtain gold / silver / platinum from Nominated Agency. Exporter in EOU and units in SEZ would be governed by the respective provisions of Chapter-6 of FTP / SEZ Rules, respectively.

(ii) Nominated Agencies are MMTC Ltd, The Handicraft and Handlooms Exports Corporation of India Ltd, The State Trading Corporation of India Ltd, PEC Ltd, STCL Ltd, MSTC Ltd, and Diamond India Limited

(iii) Four Star Export House from Gems & Jewellery sector and Five Star Export House from any sector may be recognized as Nominated Agency by Regional Authority.

(iv) Reserve Bank of India can authorize any bank as Nominated Agency.

(iv) Procedure for import of precious metal by Nominated Agency (other than those authorized by Reserve Bank of India and the Gems & Jewellery units operating under EOU and SEZ schemes) and the monitoring mechanism thereof shall be as per the provisions laid down in Hand Book of Procedures.

(v) A bank authorised by Reserve Bank of India is allowed export of gold scrap for refining and import standard gold bars as per Reserve Bank of India guidelines.

Import of Diamonds for Certification / Grading & Re-export

Following agencies are permitted to import diamonds to their laboratories without any import duty, for the purpose of certification / grading reports, with a condition that the same should be re-exported with the certification/grading reports, as per the procedure laid down in Hand Book of Procedures:

(1) Gemological Institute of America (GIA), Mumbai, Maharashtra.

(2) Indian Diamond Institute, Surat, Gujarat, India.

(3) International Institute of Diamond Grading & Research India Pvt Ltd., Surat, Gujarat, India.

Export of Cut & Polished Diamonds for Certification/ Grading & Re-import

List of authorized laboratories for certification / grading of diamonds of 0.25 carat and above are given in paragraph 4.74 of Handbook of Procedures.

Export of Cut & Polished Diamonds with Re-import Facility at Zero Duty

An exporter (with annual export turnover of ₹ 5 crores for each of the last three years) may export cut & polished diamonds (each of 0.25 carat or above) to any of the agencies/laboratories mentioned under paragraph 4.74 of Handbook of Procedures with re-import facility at zero duty within 3 months from the date of export. Such facility of re-import at zero duty will be subject to guidelines issued by Central Board of Customs & Excise, Department of Revenue.

Export against Supply by Foreign Buyer

(i) Where export orders are placed on nominated agencies / status holder / exporters of three years standing having an annual average turnover of Rupees five crores during preceding three financial years, foreign buyer may supply in advance and free of charge, gold / silver / platinum, alloys, findings and mountings of gold / silver / platinum for manufacture and export.

(ii) Such supplies can also be in advance and may involve semi-finished jewellery including findings / mountings / components for repairs / re-make and export subject to minimum value addition as prescribed under paragraph 4.61 of Handbook of Procedures. In such cases of export, wastage norms as per paragraph 4.60 of Handbook of Procedures shall apply.

(iii) Exports may be made by nominated agencies directly or through their associates or by status holder / exporter. Import and Export of findings shall be on net to net basis.

Export Promotion Tours/ Export of Branded Jewellery

(i) Nominated Agencies and their associates, with approval of Department of Commerce and with approval of Gem & Jewellery Export Promotion Council (GJEPC), may export gold / silver / platinum jewellery and articles thereof for exhibitions abroad.

(ii) Personal carriage of gold / silver / platinum jewellery, precious, semi-precious stones, beads and articles and export of branded jewellery is also permitted, subject to conditions as in Handbook of Procedures.

Personal Carriage of Export / Import Parcels

Personal carriage of gems and jewellery export parcels by foreign bound passengers and import parcels by an Indian importer/foreign national may be permitted as per the Handbook of Procedures.

Export by Post

Export of jewellery through Foreign Post Office including via Speed Post is allowed. The jewellery parcel shall not exceed 20 kgs by weight.

Private / Public Bonded Warehouse

Private / Public Bonded Warehouses may be set up in SEZ/DTA for import and re-export of cut and polished diamonds, cut and polished coloured gemstones, uncut & unset precious & semi-precious stones, subject to achievement of minimum value addition of 5% by DTA units.

Diamond & Jewellery Dollar Accounts

(a) Firms and companies dealing in purchase / sale of rough or cut and polished diamonds / precious metal jewellery plain, minakari and / or studded with / without diamond and / or other stones with a track record of at least two years in import or export of diamonds / coloured gemstones / diamond and coloured gemstones studded jewellery / plain gold jewellery and having an average annual turnover of ₹3 crore or above during preceding three licensing years may also carry out their business through designated Diamond Dollar Accounts (DDA).

(b) Dollars in such accounts available from bank finance and / or export proceeds shall be used only for:

  (i) Import / purchase of rough diamonds from overseas/ local sources;

  (ii) Purchase of cut and polished diamonds, coloured gemstones and plain gold jewellery from local sources;

  (iii) Import / purchase of gold from overseas / nominated agencies and repayment of dollar loans from the bank; and

  (iv) Transfer to Rupee Account of exporter.

  Details of this DDA Scheme are given in Handbook of Procedures.

(c) A non DDA holder is also permitted to supply cut and polished diamonds to DDA holder, receive payment in dollars and convert the same into Rupees within 7 days. Cut and polished diamonds and coloured gemstones so supplied by non-DDA holder will also be counted towards discharge of his export obligation and/ or entitle him to replenishment Authorisation.

Export of cut & polished precious and semi precious stones for treatment and re-import

Gems and Jewellery exporters shall be allowed to export cut and polished precious and semi-precious stones for the treatment and re-import as per customs rules and regulations. In case of re-export, the exporter shall be entitled for duty drawback as per rules.

Re-import of rejected Jewellery

Gems & Jewellery exporters shall be allowed to re-import rejected precious metal jewellery as per paragraph 4.91 of Handbook of Procedures.

Export and import on consignment basis

Gems & Jewellery exporters shall be allowed to export and import diamond, gemstones & jewellery on consignment basis as per Handbook of Procedures and Customs Rules and Regulations.

5.5 EXPORTS PROMOTION CAPITAL GOODS (EPCG) SCHEME

Objective

The objective of the EPCG Scheme is to facilitate import of capital goods for producing quality goods and services to enhance India's export competitiveness.

EPCG Scheme

(a) EPCG Scheme allows import of capital goods for pre-production, production and post-production at Zero customs duty. Alternatively, the Authorisation holder may also procure Capital Goods from indigenous sources. Capital goods for the purpose of the EPCG scheme shall include:

(i) Capital Goods as defined in Chapter 9 including in CKD/SKD condition thereof;

(ii) Computer software systems;

(iii) Spares, moulds, dies, jigs, fixtures, tools & refractories for initial lining and spare refractories; and

(iv) catalysts for initial charge plus one subsequent charge.

(b) Import of capital goods for Project Imports notified by Central Board of Excise and Customs is also permitted under EPCG Scheme.

(c) Import under EPCG Scheme shall be subject to an export obligation equivalent to 6 times of duty saved on capital goods, to be fulfilled in 6 years reckoned from date of issue of Authorisation.

(d) Authorisation shall be valid for import for 18 months from the date of issue of Authorisation. Revalidation of EPCG Authorisation shall not be permitted.

(e) In case countervailing duty (CVD) is paid in cash on imports under EPCG, incidence of CVD would not be taken for computation of net duty saved, provided CENVAT is not availed.

(f) Second hand capital goods shall not be permitted to be imported under EPCG Scheme.

(g) Authorisation under EPCG Scheme shall not be issued for import of any Capital Goods (including Captive plants and Power Generator Sets of any kind) for

(i) Export of electrical energy (power)

(ii) Supply of electrical energy (power) under deemed exports

(iii) Use of power (energy) in their own unit, and

(iv) Supply/export of electricity transmission services

(h) Import of items which are restricted for import shall be permitted under EPCG Scheme only after approval from Exim Facilitation Committee (EFC) at DGFT Headquarters.

(i) If the goods proposed to be exported under EPCG authorisation are restricted for export, the EPCG authorisation shall be issued only after approval for issuance of export authorisation from Exim Facilitation Committee at DGFT Headquarters.

Coverage

(a) EPCG scheme covers manufacturer exporters with or without supporting manufacturer(s), merchant exporters tied to supporting manufacturer(s) and service providers. Name of supporting manufacturer(s) shall be endorsed on the EPCG authorisation before installation of the capital goods in the factory / premises of the supporting manufacturer (s). In case of any change in supporting manufacturer (s) the RA shall intimate such change to jurisdictional Central Excise Authority of existing as well as changed supporting manufacturer (s) and the Customs at port of registration of Authorisation.

(b) Export Promotion Capital Goods (EPCG) Scheme also covers a service provider who is designated / certified as a Common Service Provider (CSP) by the DGFT, Department of Commerce or State Industrial Infrastructural Corporation in a Town of Export Excellence subject to provisions of Foreign Trade Policy/Handbook of Procedures with the following conditions:-

(i) Export by users of the common service, to be counted towards fulfilment of EO of the CSP shall contain the EPCG authorisation details of the CSP in the respective Shipping bills and concerned RA must be informed about the details of the Users prior to such export;

(ii) Such export will not count towards fulfilment of specific export obligations in respect of other EPCG authorisations (of the CSP/User); and

(iii) Authorisation holder shall be required to submit Bank Guarantee (BG) which shall be equivalent to the duty saved. BG can be given by CSP or by any one of the users or a combination thereof, at the option of the CSP.

Actual User Condition

Import of capital goods shall be subject to Actual User condition till export obligation is completed.

Export Obligation (EO)

Following conditions shall apply to the fulfilment of EO:-

(a) EO shall be fulfilled by the authorisation holder through export of goods which are manufactured by him or his supporting manufacturer / services rendered by him, for which the EPCG authorisation has been granted.

(b) EO under the scheme shall be, over and above, the average level of exports achieved by the applicant in the preceding three licensing years for the same and similar products within the overall EO period including extended period, if any; except for categories mentioned in paragraph 5.13(a) of HBP. Such average would be the arithmetic mean of export performance in the preceding three licensing years for same and similar products.

(c) In case of indigenous sourcing of Capital Goods, specific EO shall be 25% less than the EO stipulated.

(d) Shipments under Advance Authorisation, DFIA, Drawback scheme or reward schemes; would also count for fulfillment of EO under EPCG Scheme.

(e) Export shall be physical export. However, deemed exports as specified in points (a), (b), (e), (f) & (h) of paragraph, "Categories of Supplies" of FTP shall also be counted towards fulfillment of export obligation, alongwith usual benefits available under paragraph named, "Benefits for Deemed Exports" of FTP.

(f) EO can also be fulfilled by the supply of ITA-I items to DTA, provided realization is in free foreign exchange.

(g) Royalty payments received by the Authorisation holder in freely convertible currency and foreign exchange received for R&D services shall also be counted for discharge under EPCG.

(h) Payment received in rupee terms for such Services as notified in Appendix 3E of AANF shall also be counted towards discharge of export obligation under the EPCG scheme.

Provision for units under BIFR /Rehabilitation

A company holding EPCG authorisation and registered with BIFR / Rehabilitation Department of State Government or any firm/ company acquiring a unit holding EPCG authorisation which is under BIFR / Rehabilitation, may be permitted EO extension for the EPCG authorisation(s) held by the acquired unit, as per rehabilitation package prepared by operating agency and approved by BIFR / Rehabilitation Department of State Government. If time-period upto which EO extension is to be granted is not specifically mentioned in the BIFR order, EO extension of 3 years from the date of expiry of EOP (including extended period) or the date of BIFR order, whichever is later, shall be granted without payment of

composition fee.

LUT/Bond/BG in case of Agro units

LUT/Bond or 15% BG, as applicable, may be furnished for EPCG authorisation granted to units in Agri-Export Zones provided EPCG authorisation is taken for export of primary agricultural product(s) notified or their value added variants.

Indigenous Sourcing of Capital Goods and benefits to Domestic Supplier

A person holding an EPCG authorisation may source capital goods from a domestic manufacturer. Such domestic manufacturer shall be eligible for deemed export benefit. Such domestic sourcing shall also be permitted from EOUs and these supplies shall be counted for purpose of fulfilment of positive NFE by said EOU.

Calculation of Export Obligation

In case of direct imports, EO shall be reckoned with reference to actual duty saved amount. In case of domestic sourcing, EO shall be reckoned with reference to notional Customs duties saved on FOR value.

Incentive for early EO fulfilment

With a view to accelerating exports, in cases where Authorisation holder has fulfilled 75% or more of specific export obligation and 100% of Average Export Obligation till date, if any, in half or less than half the original export obligation period specified, remaining export obligation shall be condoned and the Authorisation redeemed by RA concerned. However no benefit under para 5.21 of HBP shall be permitted where incentive for early EO fulfilment has been availed.

Reduced EO for Green Technology Products

For exporters of Green Technology Products, Specific EO shall be 75% of EO. There shall be no change in average EO imposed, if any. The list of Green Technology Products is given in Para 5.29 of HBP.

Reduced EO for North East Region and Jammu & Kashmir

For units located in Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Jammu & Kashmir, specific EO shall be 25% of the EO. There shall be no change in average EO imposed, if any.

Post Export EPCG Duty Credit Scrip(s)

(a) Post Export EPCG Duty Credit Scrip(s) shall be available to exporters who intend to import capital goods on full payment of applicable duties in cash and choose to opt for this scheme.

(b) Basic Customs duty paid on Capital Goods shall be remitted in the form of freely transferable duty credit scrip(s).

(c) Specific EO shall be 85% of the applicable specific EO under the EPCG Scheme. However, average EO shall remain unchanged.

(d) Duty remission shall be in proportion to the EO fulfilled.

(e) All provisions for utilization of scrips issued shall also be applicable to Post Export EPCG Duty Credit Scrip (s).

(f) All provisions of the existing EPCG Scheme shall apply insofar as they are not inconsistent with this scheme.

5.6 EXPORT ORIENTED UNITS (EOUs), ELECTRONICS HARDWARE TECHNOLOGY PARKS (EHTPs), SOFTWARE TECHNOLOGY PARKS (STPs) AND BIO-TECHNOLOGY PARKS (BTPs)

Introduction and Objective

(a) Units undertaking to export their entire production of goods and services (except permissible sales in DTA), may be set up under the Export Oriented Unit (EOU) Scheme, Electronics Hardware Technology

Park (EHTP) Scheme, Software Technology Park (STP) Scheme or Bio-Technology Park (BTP) Scheme for manufacture of goods, including repair, re-making, reconditioning, re-engineering, rendering of services, development of software, agriculture including agro-processing, aquaculture, animal husbandry, biotechnology, floriculture, horticulture, pisciculture, viticulture, poultry and sericulture. Trading units are not covered under these schemes.

(b) Objectives of these schemes are to promote exports, enhance foreign exchange earnings, attract investment for export production and employment generation.

Export and Import of Goods

(a) An EOU / EHTP / STP / BTP unit may export all kinds of goods and services except items that are prohibited in ITC (HS).

(b) Export of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) shall be subject to fulfilment of the conditions indicated in ITC (HS). In respect of an EOU, permission to export a prohibited item may be considered, by BOA, on a case to case basis, provided such raw materials are imported and there is no procurement of such raw material from DTA.

(c) Procurement and supply of export promotion material like brochure / literature, pamphlets, hoardings, catalogues, posters etc up to a maximum value limit of 1.5% of FOB value of previous years exports shall also be allowed.

(d) An EOU / EHTP / STP / BTP unit may import and / or procure, from DTA or bonded warehouses in DTA / international exhibition held in India, without payment of duty, all types of goods, including capital goods, required for its activities, provided they are not prohibited items of import in the ITC (HS). Any permission required for import under any other law shall be applicable. Units shall also be permitted to import goods including capital goods required for approved activity, free of cost or on loan / lease from clients. Import of capital goods will be on a self-certification basis. Goods imported by a unit shall be with actual user condition and shall be utilized for export production.

(e) State Trading regime shall not apply to EOU manufacturing units. However, in respect of Chrome Ore / Chrome concentrate, State Trading Regime as stipulated in export policy of these items, will be applicable to EOUs.

(f) EOU / EHTP / STP / BTP units may import / procure from DTA, without payment of duty, certain specified goods for creating a central facility. Software EOU / DTA units may use such facility for export of software.

(g) An EOU engaged in agriculture, animal husbandry, aquaculture, floriculture, horticulture, pisciculture, viticulture, poultry or sericulture may be permitted to remove specified goods in connection with its activities for use outside bonded area.

(h) Gems and jewellery EOUs may source gold / silver / platinum through nominated agencies on loan / outright purchase basis. Units obtaining gold / silver / platinum from nominated agencies, either on loan basis or outright purchase basis shall export gold / silver / platinum within 90 days from date of release.

(i) EOU / EHTP / STP / BTP units, other than service units, may export to Russian Federation in Indian Rupees against repayment of State Credit/ Escrow Rupee Account of buyer subject to RBI clearance, if any.

(j) Procurement and export of spares / components, upto 5% of FOB value of exports, may be allowed to same consignee / buyer of the export article, subject to the condition that it shall not count for NFE and direct tax benefits.

(k) BOA may allow, on a case to case basis, requests of EOU / EHTP / STP/ BTP units in sectors other than Gems & Jewellery, for consolidation of goods related to manufactured articles and export thereof along with manufactured article. Such goods may be allowed to be imported / procured

from DTA by EOU without payment of duty, to the extent of 5% FOB value of such manufactured articles exported by the unit in preceding financial year. Details of procured / imported goods and articles manufactured by the EOU will be listed separately in the export documents. In such cases, value of procured / imported goods will not be taken into account for calculation of NFE and DTA sale entitlement. Such procured / imported goods shall not be allowed to be sold in DTA. BOA may also specify any other conditions.

Secondhand Capital goods

Second hand capital goods, without any age limit, may also be imported duty free.

Leasing of Capital Goods

(a) An EOU / EHTP / STP / BTP unit may, on the basis of a firm contract between parties, source capital goods from a domestic / foreign leasing company without payment of customs / excise duty. In such a case, EOU / EHTP / STP / BTP unit and domestic / foreign leasing company shall jointly file documents to enable import / procurement of capital goods without payment of duty.

(b) An EOU / EHTP / BTP / STP unit may sell capital goods and lease back the same from a Non Banking Financial Company (NBFC), subject to the following conditions:

  (i) The unit should obtain permission from the jurisdictional Deputy / Assistant Commissioner of Customs or Central Excise, for entering into transaction of 'Sale and Lease Back of Assets', and submit full details of the goods to be sold and leased back and the details of NBFC;

  (ii) The goods sold and leased back shall not be removed from the unit's premises;

  (iii) The unit should be NFE positive at the time when it enters into sale and lease back transaction with NBFC;

  (iv) A joint undertaking by the unit and NBFC should be given to pay duty on goods in case of violation or contravention of any provision of the notification under which these goods were imported or procured, read with Customs Act, 1962 or Central Excise Act, 1944, and that the lien on the goods shall remain with the Customs / Central Excise Department, which will have first charge over the said goods for recovery of sum due from the unit to Government under provision of Section 142(b) of the Customs Act, 1962 read with the Customs (Attachment of Property of Defaulters for Recovery of Govt. Dues) Rules, 1995.

Net Foreign Exchange Earnings

EOU / EHTP / STP / BTP unit shall be a positive net foreign exchange earner except for sector specific provision of Appendix 6 B of Appendices & ANFs, where a higher value addition shall be required. NFE Earnings shall be calculated cumulatively in blocks of five years, starting from commencement of production. Whenever a unit is unable to achieve NFE due to prohibition / restriction imposed on export of any product mentioned in LoP, the five year block period for calculation of NFE earnings may be suitably extended by BoA. Further, wherever a unit is unable to achieve NFE due to adverse market condition or any grounds of genuine hardship having adverse impact on functioning of the unit, the five year block period for calculation of NFE earnings may be extended by BOA for a period of upto one year, on a case to case basis.

Letter of Permission / Letter of Intent and Legal Undertaking

(a) On approval, a Letter of Permission (LoP) / Letter of Intent (LoI) shall be issued by DC / designated officer to EOU/ EHTP / STP / BTP unit. LoP / LoI shall have an initial validity of 2 years to enable the Unit to construct the plant & install the machinery and by this time the unit should have commenced production. In case the unit is not able to commence production in initial validity of 2 years, an extension of one year may be given by the DC for valid reasons to be recorded in writing. Subsequent extension of one year may be given by the Unit Approval Committee subject to condition that two-thirds of activities including construction, relating to the setting up of the Unit are complete

and Chartered Engineer's certificate to this effect is submitted by the Unit. Further extension, if necessary, will be granted by the Board of Approval. Once unit commences production, LoP / LoI issued shall be valid for a period of 5 years for its activities. This period may be extended further by DC for a period of 5 years at a time.

(b) LoP / LoI issued to EOU / EHTP / STP / BTP units by concerned authority, subject to compliance of provision in Para 6.01 above, would be construed as an Authorisation for all purposes.

(c) Unit shall execute an LUT with DC concerned. Failure to ensure positive NFE or to abide by any of the terms and conditions of LoP / LoI / IL / LUT shall render the unit liable to penal action under provisions of the FT (D&R) Act, as amended, and Rules and Orders made thereunder, without prejudice to action under any other law / rules and cancellation or revocation of LoP / LoI / IL.

Investment Criteria

Only projects having a minimum investment of ₹ 1 Crore in plant & machinery shall be considered for establishment as EOUs. However, this shall not apply to existing units, units in EHTP / STP / BTP, and EOUs in Handicrafts / Agriculture / Floriculture / Aquaculture / Animal Husbandry / Information Technology, Services, Brass Hardware and Handmade jewellery sectors. BOA may allow establishment of EOUs with a lower investment criteria.

Applications & Approvals

(a) Applications for setting up of units under EOU scheme shall be approved or rejected by the Units Approval Committee within 15 days as per criteria indicated in Handbook of Procedures (HBP).

(b) In other cases, approval may be granted by BOA set up for this purpose as indicated in HBP.

(c) Proposals for setting up EOU requiring industrial licence may be granted approval by DC after clearance of proposal by BOA and DIPP within 45 days.

(d) Applications for conversion into an EOU / EHTP / STP / BTP unit from existing DTA units, having an investment of ₹ 50 crores and above in plant and machinery or exporting ₹ 50 crores and above annually, shall be placed before BOA for a decision.

DTA Sale of Finished Products / Rejects / Waste/ Scrap / Remnants and By-products

Entire production of EOU / EHTP / STP / BTP units shall be exported subject to following:

(a) Units, other than gems and jewellery units, may sell goods upto 50% of FOB value of exports, subject to fulfilment of positive NFE, on payment of concessional duties. Within entitlement of DTA sale, unit may sell in DTA, its products similar to goods which are exported or expected to be exported from units. However, units which are manufacturing and exporting more than one product can sell any of these products into DTA, upto 90% of FOB value of export of the specific products, subject to the condition that total DTA sale does not exceed the overall entitlement of 50% of FOB value of exports for the unit, as stipulated above. No DTA sale at concessional duty shall be permissible in respect of motor cars, alcoholic liquors, books, tea (except instant tea), pepper & pepper products, marble and such other items as may be notified from time to time.

Such DTA sale shall also not be permissible to units engaged in activities of packaging / labelling / segregation / refrigeration / compacting / micronisation / pulverization / granulation / conversion of monohydrate form of chemical to anhydrous form or vice-versa. Sales made to a unit in SEZ shall also be taken into account for purpose of arriving at FOB value of export by EOU provided payment for such sales are made from Foreign Currency Account of SEZ unit. Sale to DTA would also be subject to mandatory requirement of registration of pharmaceutical products (including bulk drugs). An amount equal to Anti Dumping duty under section 9A of the Customs Tariff Act, 1975 leviable at the time of import, shall be payable on the goods used for the purpose of manufacture or processing of the goods cleared into DTA from the unit.

(b) For services, including software units, sale in DTA in any mode, including on line data communication,

shall also be permissible up to 50% of FOB value of exports and /or 50% of foreign exchange earned, where payment of such services is received in foreign exchange.

(c) Gems and jewellery units may sell upto 10% of FOB value of exports of the preceding year in DTA, subject to fulfilment of positive NFE. In respect of sale of plain jewellery, recipient shall pay concessional rate of duty as applicable to sale from nominated agencies. In respect of studded jewellery, duty shall be payable as applicable.

(d) Unless specifically prohibited in LoP, rejects within an overall limit of 50% may be sold in DTA on payment of duties as applicable to sale under Sub - para 6.08 (a) on prior intimation to Customs authorities. Such sales shall be counted against DTA sale entitlement. Sale of rejects upto 5% of FOB value of exports shall not be subject to achievement of NFE.

(e) Scrap / waste / remnants arising out of production process or in connection therewith may be sold in DTA, as per SION notified under Duty Exemption Scheme, on payment of concessional duties as applicable, within overall ceiling of 50% of FOB value of exports. Such sales of scrap / waste / remnants shall not be subject to achievement of positive NFE. In respect of items not covered by norms, DC may fix ad-hoc norms for a period of six months and within this period, norms should be fixed by Norms Committee. Ad-hoc norms will continue till such time norms are fixed by Norms Committee. Sale of waste / scrap / remnants by units not entitled to DTA sale, or sales beyond DTA sale entitlement, shall be on payment of full duties. Scrap / waste / remnants may also be exported.

(f) There shall be no duties / taxes on scrap / waste / remnants, in case same are destroyed with permission of Customs authorities.

(g) By-products included in LoP may also be sold in DTA subject to achievement of positive NFE, on payment of applicable duties, within the overall entitlement of Sub - para (a) of para heading, "DTA Sale of finished products/Rejects/Waste/Scrap/Remnants and by-products. Sale of by-products by units not entitled to DTA sales, or beyond entitlements of Sub-para (a) of para heading, "DTA Sale of finished products/Rejects/Waste/Scrap/Remnants and by-products, shall also be permissible on payment of full duties.

(h) EOU / EHTP / STP / BTP units may sell finished products, except pepper and pepper products and marble, which are freely importable under FTP in DTA, under intimation to DC, against payment of full duties, provided they have achieved positive NFE. An amount equal to Anti Dumping duty under section 9A of the Customs Tariff Act, 1975 leviable at the time of import, shall be payable on the goods used for the purpose of manufacture or processing of the goods cleared into DTA from the unit.

(i) In case of units manufacturing electronics hardware and software, NFE and DTA sale entitlement shall be reckoned separately for hardware and software.

(j) In case of DTA sale of goods manufactured by EOU / EHTP / STP / BTP, where basic duty and CVD is nil, such goods may be considered as non-excisable for payment of duty.

(k) In case of new EOUs, advance DTA sale will be allowed not exceeding 50% of its estimated exports for first year, except pharmaceutical units where this will be based on its estimated exports for first two years.

(l) Units in Textile and Granite sectors shall have an option to sell goods into DTA on payment of an amount equal to aggregate of duties of excise leviable under section 3 of the Central Excise Act, 1944 or under any other law for the time being in force, on like goods produced or manufactured in India other than in an EOU, subject to the condition that they have not used duty paid imported inputs in excess of 3% of the FOB value of exports of the preceding year and they have achieved positive NFE. Once this option is exercised, the unit will not be allowed to import any duty free inputs for any purpose.

(m) Procurement of spares / components, up to 2% of the value of manufactured articles, cleared into

DTA, during the preceding year, may be allowed for supply to the same consignee / buyer for the purpose of after-sale-service. The same can be cleared in DTA on payment of applicable duty but such clearances shall be within the overall entitlement of the unit for DTA sale at concessional rate of duty as prescribed in Para 6.08 (a) of FTP.

Other Supplies

Following supplies effected from EOU / EHTP / STP / BTP units will be counted for fulfilment of positive NFE. Such supplies shall not include "marble", except if such supply of marble is an inter unit supply as provided at Sub - para (c) below:

(a) Supplies effected in DTA to holders of Advance Authorisation / Advance Authorisation for annual requirement / DFIA under duty exemption / remission scheme / EPCG scheme. However, printing sector EOUs (or any other sector that may be notified in HBP), can't supply goods, where basic customs duty and CVD is nil or exempted otherwise, to holders of Advance Authorisation / Advance Authorization for annual requirement.

(b) Supplies effected in DTA against foreign exchange remittance received from overseas.

(c) Supplies to other EOU / EHTP / STP / BTP / SEZ units, provided that such goods are permissible for procurement.

(d) Supplies made to bonded warehouses set up under FTP and / or under section 65 of Customs Act and free trade and warehousing zones, where payment is received in foreign exchange.

(e) Supplies of goods and services to such organizations which are entitled for duty free import of such items in terms of general exemption notification issued by MoF, as may be provided in HBP.

(f) Supplies of Information Technology Agreement (ITA-1) items and notified zero duty telecom / electronics items.

(g) Supplies of items like tags, labels, printed bags, stickers, belts, buttons or hangers to DTA unit for export.

(h) Supply of LPG produced in an EOU refinery to Public Sector domestic oil companies for being supplied to household domestic consumers at subsidized prices under the Public Distribution System (PDS) Kerosene and Domestic LPG Subsidy Scheme, 2002, as notified by the Ministry of Petroleum and Natural Gas vide notification No. E-20029/18/2001-PP dated 28.01.2003 (hereinafter referred to as PDS Scheme) subject to the following conditions:-

    (i) Only supply of such quantity of LPG would be eligible for which Ministry of Petroleum and Natural Gas declines permission for export and requires the LPG to be cleared in DTA; and

    (ii) The Ministry of Finance by a notification has permitted duty free imports of LPG for supply under the aforesaid PDS Scheme.

Export through others

An EOU / EHTP / STP / BTP unit may export goods manufactured / software developed by it through another exporter or any other EOU / EHTP / STP / SEZ unit subject to conditions mentioned in Para 6.19 of HBP.

Entitlement for Supplies from the DTA

(a) Supplies from DTA to EOU / EHTP / STP / BTP units will be regarded as "deemed exports" and DTA supplier shall be eligible for relevant entitlements under heading 'deemed exports' of FTP, besides discharge of export obligation, if any, on the supplier. Notwithstanding the above, EOU / EHTP / STP / BTP units shall, on production of a suitable disclaimer from DTA supplier, be eligible for obtaining entitlements specified in same heading of FTP. For claiming deemed export duty drawback, they shall get brand rates fixed by DC wherever All Industry Rates of Drawback are not available.

(b) Suppliers of precious and semi-precious stones, synthetic stones and processed pearls from DTA to EOU shall be eligible for grant of Replenishment Authorisations at rates and for items mentioned in HBP.

(c) In addition, EOU / EHTP / STP / BTP units shall be entitled to following:-

(i) Reimbursement of Central Sales Tax (CST) on goods manufactured in India. Simple interest @ 6% per annum will be payable on delay in refund of CST, if the case is not settled within 30 days of receipt of complete application (as in Para 9.10 (b) of HBP).

(ii) Exemption from payment of Central Excise Duty on goods procured from DTA on goods manufactured in India.

(iii) Reimbursement of duty paid on fuel procured from Domestic Oil Companies / Depots of Domestic Oil Public Sector Undertakings as per drawback rate notified by DGFT from time to time. Reimbursement of additional duty of excise levied on fuel under the Finance Acts would also be admissible.

(iv) CENVAT Credit on service tax paid.

Other Entitlements

Other entitlements of EOU / EHTP / STP / BTP units are as under:

(a) Exemption from industrial licensing for manufacture of items reserved for SSI sector.

(b) Export proceeds will be realized within nine months.

(c) Units will be allowed to retain 100% of its export earnings in the EEFC account.

(d) Unit will not be required to furnish bank guarantee at the time of import or going for job work in DTA, where:

(i) the unit has turnover of ₹ 5 crore or above;

(ii) the unit is in existence for at least three years; and

(iii) the unit:

(1) has achieved positive NFE / export obligation wherever applicable;

(2) has not been issued a show cause notice or a confirmed demand, during the preceding 3 years, on grounds other than procedural violations, under the penal provision of the Customs Act, the Central Excise Act, the Foreign Trade (Development & Regulation) Act, the Foreign Exchange Management Act, the Finance Act, 1994 covering Service Tax or any allied Acts or the rules made thereunder, on account of fraud / collusion / wilful mis-statement / suppression of facts or contravention of any of the provisions thereof;

(e) 100% FDI investment permitted through automatic route similar to SEZ units.

(f) Units shall pay duty on the goods produced or manufactured and cleared into DTA on monthly basis in the manner prescribed in the Central Excise Rules.

(g) The Units Approval Committee may consider on a case-to-case basis request for sharing of infrastructural facilities among EOUs and it shall forward its recommendation to the Board of Approval for its consideration. While accepting such proposals, the NFE obligations of the Units shall not be altered. Such facilities will be available to Units in EHTP / STP after getting approval from IMSC. However, sharing of facilities between EOUs and SEZ Units shall not be permitted.

Inter Unit Transfer

(a) Transfer of manufactured goods from one EOU / EHTP / STP / BTP unit to another EOU / EHTP / STP / BTP unit is allowed with prior intimation to concerned Development Commissioners of the transferer and transferee units as well as concerned Customs authorities, following procedure of in-bond

movement of goods. Transfer of manufactured goods shall also be allowed from EOU / EHTP / STP / BTP unit to a SEZ developer or unit as per procedure prescribed in SEZ Rules, 2006.

(b) Capital goods may be transferred or given on loan to other EOU / EHTP / STP / BTP / SEZ units, with prior intimation to concerned DC and Customs authorities.

Such transferred goods may also be returned by the second unit to the original unit in case of rejection or for any reason without payment of duty.

(c) Goods supplied by one unit of EOU / EHTP / STP / BTP to another unit shall be treated as imported goods for second unit for payment of duty, on DTA sale by second unit.

(d) In respect of a group of EOUs / EHTPs / STPs / BTP Units which source inputs centrally in order to obtain bulk discount and / or reduce cost of transportation and other logistics cost and / or to maintain effective supply chain, inter unit transfer of goods and services may be permitted on a case-to-case basis by the Unit Approval Committee. In case inputs so sourced are imported and then transferred to another unit, then value of the goods so transferred shall be taken as inflow for the unit transferring these goods and as outflow for the unit receiving these goods, for the purpose of calculation of NFE.

Sub – Contracting

(a) (i) EOU / EHTP / STP / BTP units, including gems and jewellery units, may on the basis of annual permission from Customs authorities, sub - contract production processes to DTA through job work which may also involve change of form or nature of goods, through job work by units in DTA.

(ii) These units may sub - contract upto 50% of overall production of previous year in value terms in DTA with permission of Customs authorities.

(b) (i) EOU may, with annual permission from Customs authorities, undertake job work for export, on behalf of DTA exporter, provided that goods are exported directly from EOU and export document shall jointly be in name of DTA / EOU. For such exports, DTA units will be entitled for refund of duty paid on inputs by way of brand rate of duty drawback.

(ii) Duty free import of goods for execution of export order placed on EOU by foreign supplier on job work basis, would be allowed subject to condition that no DTA clearance shall be allowed.

(iii) Sub - contracting of both production and production processes may also be undertaken without any limit through other EOU / EHTP / STP/ BTP / SEZ units, on the basis of records maintained in unit.

(iv) EOU / EHTP / STP / BTP units may sub - contract part of production process abroad and send intermediate products abroad as mentioned in LoP. No permission would be required when goods are sought to be exported from sub - contractor premises abroad. When goods are sought to be brought back, prior intimation to concerned DC and Customs authorities shall be given.

(c) Scrap / waste / remnants generated through job work may either be cleared from job worker's premises on payment of applicable duty on transaction value or destroyed in presence of Customs / Central Excise authorities or returned to unit. Destruction shall not apply to gold, silver, platinum, diamond, precious and semi-precious stones.

(d) Sub - contracting / exchange by gems and jewellery EOUs through other EOUs or SEZ units or units in DTA, shall be as per procedure indicated in HBP.

Sale of Unutilized Material

(a) In case an EOU / EHTP / STP / BTP unit is unable to utilize goods and services, imported or procured from DTA, it may be:

(i) Transferred to another EOU / EHTP / STP / BTP / SEZ unit; or

(ii) Disposed of in DTA with approval of Customs authorities on payment of applicable duties and submission of import authorization; or

(iii) Exported.

Such transfer from EOU / EHTP / STP / BTP unit to another such unit would be treated as import for receiving unit.

(b) Capital goods and spares that have become obsolete / surplus, may either be exported, transferred to another EOU / EHTP / STP / BTP / SEZ unit or disposed of in DTA on payment of applicable duties. Benefit of depreciation, as applicable, will be available in case of disposal in DTA only when the unit has achieved positive NFE taking into consideration the depreciation allowed. No duty shall be payable in case capital goods, raw material, consumables, spares, goods manufactured, processed or packaged, and scrap / waste / remnants / rejects are destroyed within unit after intimation to Customs authorities or destroyed outside unit with permission of Customs authorities.

Destruction as stated above shall not apply to gold, silver, platinum, diamond, precious and semi-precious stones.

(c) In case of textile sector, disposal of left over material / fabrics upto 2% of CIF value or quantity of import, whichever is lower, on payment of duty on transaction value, may be allowed, subject to certification of Central Excise / Customs officers that these are leftover items.

(d) Disposal of used packing material will be allowed on payment of duty on transaction value.

Reconditioning / Repair and Re - engineering

(a) EOUs shall be set up with approval of UAC to carry out reconditioning, repair, remaking, testing, calibration, quality improvement, upgradation of technology and re-engineering activities for export in foreign currency.

(b) EHTP/STP/BTP units shall be set up with approval of IMSC to carry out reconditioning, repair, remaking, testing, calibration, quality improvement, upgradation of technology and re-engineering activities for export in foreign currency.

Replacement / Repair of Imported / Indigenous Goods

(a) General provisions of FTP relating to export / import of replacement / repair of goods would also apply equally to EOU / EHTP / STP / BTP units. Cases not covered by these provisions shall be considered on merits by DC.

(b) Goods sold in DTA and not accepted for any reasons, may be brought back for repair / replacement, under intimation to concerned jurisdictional Customs / Central Excise authorities.

(c) Goods or parts thereof, on being imported / indigenously procured and found defective or otherwise unfit for use or which have been damaged or become defective subsequently, may be returned and replacement obtained or destroyed. In the event of replacement, goods may be brought back from foreign suppliers or their authorized agents in India or indigenous suppliers. The unit can take free of cost replacement (duty paid) from the authorized agents in India of foreign suppliers, provided the defective part is re - exported or destroyed. However, destruction shall not apply to precious and semi-precious stones and precious metals.

Exit from EOU Scheme

(a) With approval of DC, an EOU may opt out of scheme. Such exit shall be subject to payment of Excise and Customs duties and industrial policy in force.

(b) If unit has not achieved obligations, it shall also be liable to penalty at the time of exit.

(c) In the event of a gems and jewellery unit ceasing its operation, gold and other precious metals, alloys, gems and other materials available for manufacture of jewellery, shall be handed over to

an agency nominated by DoC, at price to be determined by that agency.

(d) An EOU / EHTP / STP / BTP unit may also be permitted by DC to exit from the scheme at any time on payment of duty on capital goods under the prevailing EPCG Scheme for DTA Units. This will be subject to fulfilment of positive NFE criteria under EOU scheme, eligibility criteria under EPCG scheme and standard conditions indicated in HBP.

(e) Unit proposing to exit out of EOU scheme shall intimate DC and Customs and Central Excise authorities in writing. Unit shall assess duty liability arising out of de-bonding and submit details of such assessment to Customs and Central Excise authorities. Customs and Central Excise authorities shall confirm duty liabilities on priority basis, subject to the condition that the unit has achieved positive NFE, taking into consideration the depreciation allowed. After payment of duty and clearance of all dues, unit shall obtain "No Dues Certificate" from Customs and Central Excise authorities. On the basis of "No Dues Certificate" so issued by the Customs and Central Excise authorities, unit shall apply to DC for final de-bonding. In case there is no proceeding pending under FT(D&R) Act, as amended, DC shall issue final de-bonding order within a period of 7 working days. Between "No Dues Certificate" issued by Customs and Central Excise authorities and final de-bonding order by DC, unit shall not be entitled to claim any exemption for procurement of capital goods or inputs. However, unit can claim Advance Authorisation / DFIA / Duty Drawback. Since the duty calculations and dues are disputed and take a long time, a BG / Bond / Instalment processes backed by BG shall be provided for expediting the exit process.

(f) In cases where a unit is initially established as DTA unit with machines procured from abroad after payment of applicable import duty, or from domestic market after payment of excise duty, and unit is subsequently converted to EOU, in such cases removal of such capital goods to DTA after de-bonding would be without payment of duty. Similarly, in cases where a DTA unit imported capital goods under EPCG Scheme and after completely fulfilling export obligation gets converted into EOU, unit would not be charged customs duty on capital goods at the time of removal of such capital goods in DTA when de-bonding.

(g) An EOU / EHTP / STP / BTP unit may also be permitted by DC to exit under Advance Authorization as one time option. This will be subject to fulfilment of positive NFE criteria.

(h) A simplified procedure may be provided to fast track the De-bonding/ Exit of the STP / EHTP Unit which has not availed any duty benefit on procurement of raw material, capital goods etc.

Conversion

(a) Existing DTA units may also apply for conversion into an EOU / EHTP / STP / BTP unit.

(b) Existing EHTP / STP units may also apply for conversion / merger to EOU unit and vice-versa. In such cases, units will remain in bond and avail exemptions in duties and taxes as applicable.

Monitoring of NFE

Performance of EOU / EHTP / STP / BTP units shall be monitored by Units Approval Committee as per guidelines in HBP.

Export through Exhibitions / Export Promotion Tours / Showrooms Abroad / Duty Free Shops

EOU / EHTP / STP / BTP are permitted to:

(i) Export goods for holding / participating in Exhibitions abroad with permission of DC.

(ii) Personal carriage of gold / silver / platinum jewellery, precious, semi-precious stones, beads and articles.

(iii) Export goods for display / sale in permitted shops set up abroad.

(iv) Display / sell in permitted shops set up abroad, or in showrooms of their distributors / agents.

(v) Set up showrooms / retail outlets at International Airports.

Personal Carriage of Import / Export Parcels including through Foreign Bound Passengers

Import / export through personal carriage of gems and jewellery items may be undertaken as per Customs procedure. However, export proceeds shall be realized through normal banking channel. Import / export through personal carriage by units, other than gems and jewellery units, shall be allowed provided goods are not in commercial quantity. An authorized person of Gems & Jewellery EOU may also import gold in primary form, upto 10 Kgs in a financial year through personal carriage, as per guidelines prescribed by RBI and DoR.

Export / Import by Post / Courier

Goods including free samples, may be exported / imported by airfreight or through foreign post office or through courier, as per Customs procedure.

Administration of EOUs / Powers of DC

Details of administration of EOUs and power of DC is given in HBP.

6.25 Revival of Sick Units

Subject to a unit being declared sick by appropriate authority, proposals for revival of the unit or its take over may be considered by BOA.

Approval of EHTP / STP

In case of units under EHTP / STP schemes, necessary approval / permission under relevant paras of this Chapter shall be granted by officer designated by Ministry of Communication and Information Technology, Department of Electronics & Information Technology, instead of DC, and by Inter-Ministerial Standing Committee (IMSC) instead of BOA.

Approval of BTP

Bio-Technology Parks (BTP) would be notified by DGFT on recommendations of Department of Biotechnology. In case of units in BTP, necessary approval / permission under relevant provisions of this chapter will be granted by designated officer of Department of Biotechnology.

Warehousing Facilities

An EOU which intends to set up warehousing facilities outside the EOU premises and outside the jurisdiction of DC, at a place near to the port of export, to reduce lead time for delivery of goods overseas and to address unpredictability of supply orders, is permitted to do so subject to the provisions related to export warehousing as per terms and conditions of Notifications issued by the Department of Revenue.

5.7 DEEMED EXPORTS

Objective

To provide a level-playing field to domestic manufacturers in certain specified cases, as may be decided by the Government from time to time.

Deemed Exports

"Deemed Exports" refer to those transactions in which goods supplied do not leave country, and payment for such supplies is received either in Indian rupees or in free foreign exchange. Supply of goods as specified in Paragraph below shall be regarded as "Deemed Exports" provided goods are manufactured in India.

Categories of Supply

Supply of goods under following categories (a) to (d) by a manufacturer and under categories (e) to (h) by main / subcontractors shall be regarded as "Deemed Exports":

A. Supply by manufacturer:

(a) Supply of goods against Advance Authorisation / Advance Authorisation for annual requirement / DFIA;

(b) Supply of goods to EOU / STP / EHTP / BTP;

(c) Supply of capital goods against EPCG Authorisation;

(d) Supply of marine freight containers by 100% EOU (Domestic freight containers-manufacturers) provided said containers are exported out of India within 6 months or such further period as permitted by customs;

B. Supply by main / sub-contractor (s):

(e) (i) Supply of goods to projects financed by multilateral or bilateral Agencies / Funds as notified by Department of Economic Affairs (DEA), MoF, where legal agreements provide for tender evaluation without including customs duty.

(ii) Supply and installation of goods and equipment (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral Agencies/Funds as notified by Department of Economic Affairs (DEA), MoF, for which bids have been invited and evaluated on the basis of Delivered Duty Paid (DDP) prices for goods manufactured abroad.

(iii) Supplies covered in this paragraph shall be under International Competitive Bidding (ICB) in accordance with procedures of those Agencies / Funds.

(iv) A list of agencies, covered under this paragraph, for deemed export benefits, is given in Appendix 7A of AANF.

(f) (i) Supply of goods to any project or for any purpose in respect of which the Ministry of Finance, by Notification No. 12/2012 –Customs dated 17.3.2012, as amended from time to time, permits import of such goods at zero customs duty subject to conditions specified in the above said Notification. Benefits of deemed exports shall be available only if the supply is made under procedure of ICB.

(ii) Supply of goods required for setting up of any mega power project, as specified in the list 32A, at Sl. No. 507 of Department of Revenue Notification No. 12/2012- Customs dated 17.03.2012, as amended from time to time, shall be eligible for deemed export benefits provided such mega power project conforms to the threshold generation capacity specified in the above said Notification.

(iii) For mega power projects, ICB condition would not be mandatory if the requisite quantum of power has been tied up through tariff based competitive bidding or if the project has been awarded through tariff based competitive bidding.

(g) Supply of goods to United Nations or International Organisations for their official use or supplied to the projects financed by the said United Nations or an International organisation approved by Government of India. List of such organisation and conditions applicable to such supplies is given in the Excise Notification No 108/95-CE, dated 28.08.1995, as amended from time to time. A list of Agencies, covered under this paragraph, is given in Appendix-7B of AANF.

(h) Supply of goods to nuclear power projects provided:

(i) Such goods are required for setting up of any Nuclear Power Project as specified in the list 33 at Sl. No. 511 of Notification No. 12/2012 – Customs dated 17.3.2012, as amended from time to time.

(ii) The project should have a capacity of 440 MW or more.

(iii) A certificate to the effect is required to be issued by an officer not below the rank of Joint Secretary to Government of India, in Department of Atomic Energy.

(iv) Tender is invited through National competitive bidding (NCB) or through ICB.

Benefits for Deemed Exports

Deemed exports shall be eligible for any / all of following benefits in respect of manufacture and supply of goods, qualifying as deemed exports, subject to terms and conditions as given in HBP and ANF-7A:

(a) Advance Authorisation / Advance Authorisation for annual requirement / DFIA.

(b) Deemed Export Drawback.

(c) Refund of terminal excise duty, if exemption is not available.

Benefits to the Supplier /Recipient

Categories of supplies	Benefits on supplies, whichever is applicable.		
	Advance Authorisation	Duty Drawback	Terminal Excise Duty
(a)	Yes (for intermediate supplies against an invalidation letter)	Yes (against ARO or Back to Back letter of credit)	(i) Exemption, in case of Invalidation Letter (ii) Refund, in case of ARO or back to back letter of credit (iii) No exemption/refund against supply to DFIA as CVD is not exempted
(b)	Yes	Yes	Exemption
(c)	Yes	Yes	Refund
(d)	No	Yes	Refund
(e)	Yes	Yes	Exemption
(f)	Yes	Yes	Exemption, if supplies under ICB. Refund, if supplies under tariff based competitive bidding.
(g)	Yes	Yes	Exemption
(h)	Yes	Yes	Refund

Conditions for refund of terminal excise duty

(i) Supply of goods will be eligible for refund of terminal excise duty as per point (c) of para, "Benefits for Deemed exports" of FTP, provided recipient of goods does not avail CENVAT credit/rebate on such goods.

(ii) However, supply of goods which are exempted ab-initio from payment of Terminal Excise Duty would be ineligible to get refund of TED. Exemption from TED is available to the following:

(a) Supplies under ICB;

(b) Supplies of intermediate goods, against invalidation letter, made by an Advance Authorisation holder to another Advance Authorisation holder;

(c) Goods Procured by EOU / EHTP / STP / BTP unit from a unit in DTA; and

(d) Supply of goods to UN/International Organisation or project funded by it.

Conditions for refund of deemed export drawback

Supplies will be eligible for deemed export drawback as per para 7.03 (b) of FTP, as under:

(a) In case CENVAT credit / rebate has not been availed on the inputs / input services, by the supplier of goods, then, benefit as per Column 'A' of All Industry Rate of Duty Drawback Schedule shall be admissible.

(b) If CENVAT credit / rebate has been availed by the supplier of goods, on inputs / input services, then, no Drawback shall be admissible as per Column 'B' of All Industry Rate of Duty Drawback Schedule. However, in such cases, Basic Customs Duty paid can be claimed as Brand Rate of Duty Drawback based upon submission of documents evidencing actual payment of duties.

Common conditions for deemed export benefits

(i) Supplies shall be made directly to entities listed in the Para heading "Categories of Supply". Third party supply shall not be eligible for benefits/exemption.

(ii) In all cases, supplies shall be made directly to the designated Projects/Agencies/Units/ Advance Authorisation/ EPCG Authorisation holder. Subcontractors may, however, make supplies to main contractor instead of supplying directly to designated Projects/ Agencies. Payments in such cases shall be made to sub-contractor by main-contractor and not by project Authority.

(iii) Supply of domestically manufactured goods by an Indian Sub-contractor to any Indian or foreign main contractor, directly at the designated project's/ Agency's site, shall also be eligible for deemed export benefit provided name of sub-contractor is indicated either originally or subsequently (but before the date of supply of such goods) in the main contract. In such cases payment shall be made directly to sub-contractor by the Project Authority.

Benefits on specified supplies

(i) Deemed export benefits shall be available for supplies of 'Cement" only.

(ii) Deemed export benefit shall be available on supply of "Steel":

  (a) As an inputs to Advance Authorization/ Annual Advance Authorization/DFIA holder/ an EOU.

  (b) To multilateral/ bilateral funded Agencies.

(iii) Deemed export benefit shall be available on supply of "Fuel" provided supplies are made to:

  (a) Project listed for petroleum operations in the Customs Notification No. 12/2012–Cus. dated 17.03.2012 under Sr. No. 356, 358 to 360 and covered in Para 7.02 (f) of FTP;

  (b) EOUs;

  (c) Advance Authorization holder / Annual Advance Authorization holder.

Liability of Interest

Incomplete/deficient application is liable to be rejected. However, simple interest @ 6% per annum will be payable on delay in refund of duty drawback and terminal excise duty under the scheme, provided the claim is not settled within 30 days from the date of issue of final Approval Letter by RA.

Risk Management and Internal Audit mechanism

(a) A Risk Management system shall be in operation, wherein every month, Computer system in DGFT headquarters, on random basis, will select 10% of cases, for each RA, where benefit(s) under this chapter has/have already been granted. Such cases shall be scrutinized by an internal Audit team, headed by a Joint DGFT, in the office of respective Zonal Addl. DGFT. The team will be responsible to audit claims of not only for its own office but also the claims of all RAs falling under the jurisdiction of the Zone.

(b) The respective RA may also, either on the basis of report from Internal Audit/ External Audit Agency(ies) or suo-motu, reassess any case, where any erroneous/in-eligible payment has been made/claimed. RA will take necessary action for recovery of payment along with interest at the rate of 15% per annum on the recoverable amount.

Penal Action

In case, claim is filed by submitting mis-declaration/misrepresentation of facts, then in addition to effecting recovery under Para above, the applicant shall be liable for penal action under the provisions of F.T. (D&R) Act, Rules and orders made thereunder.

5.8 QUALITY COMPLAINTS AND TRADE DISPUTES

Objective

Exporters need to project a good image of the country abroad to promote exports. Maintaining an enduring relationship with foreign buyers is of utmost importance, and complaints or trade disputes, whenever they arise, need to be settled amicably as soon as possible. Importers too may have grievances as well.

In an endeavour to resolve such complaints or trade disputes and to create confidence in the business environment of the country, a mechanism is being laid down to address such complaints and disputes in an amicable way.

Quality Complaints/ Trade disputes

The following type of complaints may be considered:

(a) Complaints received from foreign buyers in respect of poor quality of the products supplied by exporters from India;

(b) Complaints of importers against foreign suppliers in respect of quality of the products supplied; and

(c) Complaints of unethical commercial dealings categorized mainly as non-supply/ partial supply of goods after confirmation of order; supplying goods other than the ones as agreed upon; non-payment; non-adherence to delivery schedules, etc.

Obligation on the part of importer/ exporter

(a) Rule 11 of the Foreign Trade (Regulation) Rules, 1993, requires that on the importation into, or exportation out of, any customs ports of any goods, whether liable to duty or not, the owner of such goods shall in the Bill of Entry or the Shipping Bill or any other documents prescribed under the Customs Act, 1962 (52 of 1962), state the value, quality and description of such goods to the best of his knowledge and belief and in case of exportation of goods, certify that the quality and specification of the goods as stated in those documents, are in accordance with the terms of the export contract entered into with the buyer or consignee in pursuance of which the goods are being exported and shall subscribe a declaration of the truth of such statement at the foot of such Bill of Entry or Shipping Bill or any other documents. Violation of this provision renders the exporter liable for penal action.

(b) Certain export commodities have been notified for Compulsory Quality Control & Pre-shipment Inspection prior to their export. Penal action can be taken under the Export (Quality Control & Inspection) Act, 1963 as amended in 1984, against exporters who do not conform to these standards and/ or provisions of the Act as laid down for such products.

Provisions in FT (D&R) Act & FT (Regulation) Rules for necessary action against erring exporters/ importers

Action against erring exporters can be taken under the Foreign Trade (Development and Regulation) Act, 1992, as amended and under Foreign Trade (Regulation) Rules, 1993, as follows:-

(a) Section 8 of the Act empowers the Director General of Foreign Trade or any other person authorized by him to suspend or cancel the Importer Exporter Code Number for the reasons as given therein.

(b) Section 9 (2) of the Act empowers the Director General of Foreign Trade or an officer authorised by him to refuse to grant or renew a license, certificate, scrip or any other instrument bestowing financial or fiscal benefit granted under the Act.

(c) Section 9(4) empowers the Director General of Foreign Trade or the officer authorized by him to suspend or cancel any License, certificate, scrip or any instrument bestowing financial or fiscal benefit granted under the Act.

(d) Section 11(2) of the Act provides for imposition of fiscal penalty in cases where a person makes or abets or attempts to make any import or export in contravention of any provision of the Act, any Rules or Orders made there under or the Foreign Trade Policy.

Mechanism for handling of Complaints/ Disputes

(a) **Committee on Quality complaints and Trade Disputes (CQCTD)**

To deal effectively with the increasing number of complaints and disputes, a 'Committee on Quality Complaints and Trade Disputes' (CQCTD) will be constituted in the 22 offices of the RA's of DGFT. Names of RAs, where CQCTD has been constituted and jurisdiction of CQCTD is given in Chapter 8 of the Handbook of Procedures.

(b) **Composition of the CQCTD**

The CQCTD would be constituted under the Chairpersonship of the Head of Office. The constitution of CQCTD is given in Chapter 8 of the Hand Book of Procedures.

(c) **Functions of CQCTD**

The Committee (CQCTD) will be responsible for enquiring and investigating into all Quality related complaints and other trade related complaints falling under the jurisdiction of the respective RAs. It will take prompt and effective steps to redress and resolve the grievances of the importers, exporters and overseas buyers, preferably within three months of receipt of the complaint. Wherever required, the Committee (CQCTD) may take the assistance of the Export Promotion Councils/FIEO/Commodity Boards or any other agency as considered appropriate for settlement of these disputes.

Proceedings under CQCTD

CQCTD proceedings are only reconciliatory in nature and the aggrieved party, whether the foreign buyer or the Indian importer, is free to pursue any legal recourse against the other erring party.

Procedures to deal with complaints and trade disputes

The procedure for making an application for such complaints or trade disputes and the procedure to deal with such quality complaints and disputes is given in the Handbook of Procedures.

Corrective Measures

The Committee at RA level can authorize the Export Inspection Agency or any technical authority to assess whether there has been any technical failure of not meeting the standards, manufacturing/ design defects, etc. for which complaints have been received.

Nodal Officer

Director General of Foreign Trade would appoint an officer, not below the rank of Joint Director General, in the Headquarters, to function as the 'Nodal Officer' for coordinating with various Regional Authorities of DGFT.

5.9 DEFINITIONS

1. For purpose of FTP, unless context otherwise requires, the following words and expressions shall have the following meanings attached to them:-

2. "Accessory" or "Attachment" means a part, sub-assembly or assembly that contributes to efficiency or effectiveness of a piece of equipment without changing its basic functions.

3. "Act" means Foreign Trade (Development and Regulation) Act, 1992 (No.22 of 1992) [FT (D&R) Act] as amended from time to time.

4. "Actual User" is a person (either natural or legal) who is authorized to use imported goods in his/ its own premise which has a definitive postal address.

   (a) "Actual User (Industrial)" is a person (either natural & legal) who utilizes imported goods for manufacturing in his own industrial unit or manufacturing for his own use in another unit including a jobbing unit which has a definitive postal address.

   (b) "Actual User (Non-Industrial)" is a person (either natural & legal) who utilizes the imported goods for his own use in:

      (i) any commercial establishment, carrying on any business, trade or profession, which has a definitive postal address; or

      (ii) any laboratory, Scientific or Research and Development (R&D) institution, university or other educational institution or hospital which has a definitive postal address; or

      (iii) any service industry which has a definitive postal address.

5. "AEZ" means Agricultural Export Zones notified by DGFT in Appendix 2V of Appendices and Aayat Niryat Forms.

6. "Appeal" is an application filed under section 15 of the Act and includes such applications preferred by DGFT officials in government interest against decision by designated adjudicating/ appellate authorities.

7. "Applicant" means person on whose behalf an application is made and shall, wherever context so requires, includes person signing the application.

8. "Authorization" means permission as included in Section 2 (g) of the Act to import or export as per provisions of FTP.

9. "Capital Goods" means any plant, machinery, equipment or accessories required for manufacture or production, either directly or indirectly, of goods or for rendering services, including those required for replacement, modernisation, technological up-gradation or expansion. It includes packaging machinery and equipment, refrigeration equipment, power generating sets, machine tools, equipment and instruments for testing, research and development, quality and pollution control.

   Capital goods may be for use in manufacturing, mining, agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture and viticulture as well as for use in services sector.

10. "Competent Authority" means an authority competent to exercise any power or to discharge any duty or function under the Act or the Rules and Orders made there under or under FTP.

11. "Component" means one of the parts of a sub-assembly or assembly of which a manufactured product is made up and into which it may be resolved. A component includes an accessory or attachment to another component.

12. "Consumables" means any item, which participates in or is required for a manufacturing process, but does not necessarily form part of end-product. Items, which are substantially or totally consumed during a manufacturing process, will be deemed to be consumables.

13. "Consumer Goods" means any consumption goods, which can directly satisfy human needs without further processing and includes consumer durables and accessories thereof.

14. "Counter Trade" means any arrangement under which exports/imports from /to India are balanced either by direct imports/exports from importing/exporting country or through a third country under a Trade Agreement or otherwise.

    Exports/ Imports under Counter Trade may be carried out through Escrow Account, Buy Back arrangements, Barter trade or any similar arrangement. Balancing of exports and imports could wholly or partly be in cash, goods and/or services.

15. "Developer" means a person or body of persons, company, firm and such other private or government undertaking, who develops, builds, designs, organises, promotes, finances, operates, maintains or manages a part or whole of infrastructure and other facilities in SEZ as approved by Central Government and also includes a co- developer.

16. "Development Commissioner" means Development Commissioner of SEZ

17. "Domestic Tariff Area (DTA)" means area within India which is outside SEZs and EOU/ EHTP/ STP/ BTP.

18. "Drawback on deemed export" in relation to any goods manufactured in India and supplied as deemed exports, means the rebate of duty or tax, as the case may be, chargeable on any imported materials or excisable materials used or taxable services used as input services in the manufacture of such goods.

19. "EOU" means Export Oriented Unit for which a letter of permit has been issued by Development Commissioner.

20. "Excisable goods" means any goods produced or manufactured in India and subject to duty of excise under Central Excise and Salt Act 1944 (1 of 1944).

21. "Export" is as defined in FT (D&R) Act, 1992, as amended from time to time.

22. "Exporter" means a person who exports or intends to export and holds an IEC number, unless otherwise specifically exempted.

23. "Export Obligation" means obligation to export product or products covered by Authorisation or permission in terms of quantity, value or both, as may be prescribed or specified by Regional or competent authority.

24. "Free" as appearing in context of import/export policy for items means goods which do not need any 'Authorisation'/ License or permission for being imported into the country or exported out.

25. "FTP" means the Foreign Trade Policy which specifies policy for exports and imports under Section 5 of the Act.

26. "Import" is as defined in FT (D&R) Act, 1992 as amended from time to time.

27. "Importer" means a person who imports or intends to import and holds an IEC number, unless otherwise specifically exempted.

28. ITC (HS) refers to Indian Trade Classification (Harmonized System) at 8 digits.

29. "Jobbing" means processing or working upon of raw materials or semi-finished goods supplied to job worker, so as to complete a part of process resulting in manufacture or finishing of an article or any operation which is essential for aforesaid process.

30. "Licensing Year" means period beginning on the st st 1 April of a year and ending on the 31 March of the following year.

31. "Managed Hotel" means hotels managed by a three star or above hotel/ hotel chain under an operating management contract for a duration of at least three years between operating hotel/ hotel chain and hotel being managed. Management contract must necessarily cover the entire gamut of operations/ management of managed hotel.

32. "Manufacture" means to make, produce, fabricate, assemble, process or bring into existence, by hand or by machine, a new product having a distinctive name, character or use and shall include processes such as refrigeration, re-packing, polishing, labeling, Re-conditioning repair, remaking, refurbishing, testing, calibration, re-engineering.

Manufacture, for the purpose of FTP, shall also include agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry, sericulture, viticulture and mining.

33. "Manufacturer Exporter" means a person who exports goods manufactured by him or intends to export such goods.
34. "Merchant Exporter" means a person engaged in trading activity and exporting or intending to export goods.
35. "NC" means the Norms Committee in the Directorate General of Foreign Trade for approval of adhoc input –output norms in cases where SION does not exist and recommend SION to be notified in DGFT.
36. "Notification" means a notification published in Official Gazette.
37. "Order" means an Order made by Central Government under the Act.
38. "Part" means an element of a sub-assembly or assembly not normally useful by itself, and not amenable to further disassembly for maintenance purposes. A part may be a component, spare or an accessory.
39. "Person" means both natural and legal and includes an individual, firm, society, company, corporation or any other legal person including the DGFT officials.
40. "Policy" means Foreign Trade Policy (2015-2020) as amended from time to time.
41. "Prescribed" means prescribed under the Act or the Rules or Orders made there under or under FTP.
42. "Prohibited" indicates the import/export policy of an item, as appearing in ITC (HS) or elsewhere, whose import or export is not permitted.
43. "Public Notice" means a notice published under provisions of paragraph 2.04 of FTP.
44. "Quota" means the quantity of goods of a specific kind that is permitted to be imported without restriction or imposition of additional Duties.
45. "Raw material" means input(s) needed for manufacturing of goods. These inputs may either be in a raw/natural/ unrefined/ unmanufactured or manufactured state.
46. "Regional Authority" means authority competent to grant an Authorisation under the Act / Order.
47. "Registration-Cum-Membership Certificate" (RCMC) means certificate of registration and membership granted by an Export Promotion Council / Commodity Board / Development Authority or other competent authority as prescribed in FTP or Handbook of Procedures.
48. "Restricted" is a term indicating the import or export policy of an item, which can be imported into the country or exported outside, only after obtaining an authorization from the offices of DGFT.
49. "Rules" means Rules made by Central Government under Section 19 of the FT (D&R)Act.
50. "SCOMET" is the nomenclature for dual use items of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET). Export of dual-use items and technologies under India's Foreign Trade Policy is regulated. It is either prohibited or is permitted under an authorization.
51. "Services" include all tradable services covered under General Agreement on Trade in Services (GATS) and earning free foreign exchange.
52. "Service Provider" means a person providing:
    (i) Supply of a 'service' from India to any other country; (Mode1- Cross border trade)
    (ii) Supply of a 'service' from India to service consumer(s) of any other country; (Mode 2- Consumption abroad)
    (iii) Supply of a 'service' from India through commercial presence in any other country. (Mode 3 – Commercial Presence.)
    (iv) Supply of a 'service' from India through the presence of natural persons in any other country (Mode 4- Presence of natural persons.)

53. "Ships" mean all types of vessels used for sea borne trade or coastal trade, and shall include second hand vessels.

54. "SION" means Standard Input Output Norms notified by DGFT.

55. "Spares" means a part or a sub-assembly or assembly for substitution that is ready to replace an identical or similar part or sub- assembly or assembly. Spares include a component or an accessory.

56. "Specified" means specified by or under the provisions of this Policy through Notification / Public Notice.

57. "Status holder" means an exporter recognized as One Star Export House/ Two Star Export House / Three Star Export House / Four Star Export House/ Five Star Export House by DGFT/ Development Commissioner.

58. "Stores" means goods for use in a vessel or aircraft and includes fuel and spares and other articles of equipment, whether or not for immediate fitting.

59. (a) "Supporting Manufacturer" is one who manufactures goods/products or any part/ accessories/components of a good/product for a merchant exporter or a manufacturer exporter under a specific authorization.

    (b) "Supporting Manufacturer" for the EPCG Scheme shall be one in whose premises/factory Capital Goods imported/ procured under EPCG authorization is installed.

60. State Trading Enterprises (STEs), for the purpose of this FTP, are those entities which are granted exclusive right / privileges export and / or import as per para 2.20 (a) of FTP.

61. "Third-party exports" means exports made by an exporter or manufacturer on behalf of another exporter(s).

    In such cases, export documents such as shipping bills shall indicate name of both manufacturing exporter /manufacturer and third party exporter(s). Bank Realisation Certificate, Self Declaration Form (SDF), export order and invoice should be in the name of third party exporter.

62. "Transaction Value" is as defined in Customs Valuation Rules of Department of Revenue.

63. "Wild Animal" means any wild animal as defined in Section 2(36) of Wildlife (Protection) Act, 1972.

The following annexures and appendices are required to be certified by the Cost Accountants:

Appendix -5B	Certificate of Chartered Accountant/ Cost Accountant/ Company Secretary (For Issue of EPCG Authorisation)
Appendix- 5C	Certificate of Chartered Accountant/ Cost Accountant/ Company Secretary (For Redemption of EPCG Authorization / Issuance of Post Export EPCG Duty Credit Scrip)
Annexure to Appendix 2 L	Certificate for Offsetting of Export Proceeds
Appendix -4H	Register for Accounting the Consumption and Stocks of Duty Free Imported or Domestically Procured Raw Materials, Components etc. Allowed Under Advance Authorisation / DFIA
Appendix -3B	List of products and list of markets eligible under Merchandise Exports from India Scheme (MEIS)
Appendix- 3C	List of eligible category under MEIS if exported through using E-commerce platform
Appendix- 3D	List of Services eligible under Service Exports from India Scheme (SEIS)
Appendix -3E	List of services where payment has been received in Indian rupees which can be treated as receipt in Deemed Foreign Exchange as per guidelines of Reserve Bank of India

Study Note - 6

Point ii and iii under Point 6.1.1 [Statutes Governing the Levy of Service Tax] in Page No. 6.1 — Removed

Point (x) under Point 6.1.4 [Salient features of levy of service tax] in Page No. 6.3 — Modified

(x) Rate of service tax: The rate of service tax specified under section 66B is **14%** of value of taxable services. **Swachh Bharat Cess has been levied u/s 119 of Finance Act, 2015 @ 0.5% w.e.f. 15-11- 2015 on value of taxable services. Hence, effective rate of charge of service tax is 14.5% of value of taxable service.**

Point 6.1.5 [Concept of charge of service tax] in Page No. 6.4 — Modified

Charge of service tax on and after Finance Act, 2012 [Section 66B]: There shall be levied service tax at the rate of **14.5%** on the value of all services, other than those services specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed.

Essentials for charge of service tax: Thus, important ingredients for charge of service tax are -

(i) The service should have been provided or agreed to be provided.

(ii) The service should be provided for a consideration.

(iii) The service should be provided by one person to another person.

(iv) The service should be provided in taxable territory *(i.e.* India excluding State of Jammu & Kashmir) as per Place of Provision of Service Rules, 2012.

(v) Services must not be specified in the negative list.

(vi) Service tax is levied @ **14%** (increased by **Swachh Bharat Cess @ 0.5%**) of value of taxable service. Hence, effective rate is **14.5%** of value of taxable service.

(vii) Service tax is collected in such manner as may be prescribed (i.e. in accordance with Service Tax Rules, 1994).

Explanation 2 of Point 6.1.7 [Service] in Page No. 6.5 — Modified

Explanation 2:

(i) For the purposes of this clause, transaction in money shall not include any activity relating to the 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.

Point (2)(a) under Point 6.1.7 [Service] in Page No. 6.5 — Modified

Person [Section 65B(37)]: Person includes, -

- an individual,
- a Hindu undivided family,
- a company,
- a society,
- a limited liability partnership,
- a firm,
- an association of persons or body of individuals, whether incorporated or not,
- Government,

Government [Section 65B (26A), inserted by the Finance Act, 2015, w.e.f. 14.05.2015]:

"Government" means —

(i) the Departments of the Central Government,

(ii) a State Government and its Departments and

(iii) a Union territory and its Departments,

but shall not include any entity, —

(A) whether created by a statute or otherwise,

(B) the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made thereunder.

- a local authority, or
- every artificial juridical person, not falling within any of the preceding sub-clauses.

Point (1)(iv) under heading "Exclusions from the definition of Service / Activities not covered under Service" in Page No. 6.10 — Modified

(iv) Activities relating to use of money or its conversion into another form/ currency/ denomination for consideration included in definition of service [Explanation 2]:

(A) Activities relating -

- to use of money; or
- its conversion from one form, currency or denomination to another form, currency or denomination;

for which a separate consideration is charged; shall be included as 'service'.

(B) 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.

Example 9 under Point 6.2.9 [Input Service Distributor] in Page No. 6.17 — Modified

Example 9:

X Ltd. has three units namely:

Place	Nature	Turnover for the April 2015 (₹)	Output
Chennai	Factory	2,50,000	Dutiable goods
Bangalore	Factory	1,50,000	Dutiable goods
Hyderabad	Service unit	1,10,000	Taxable service
Total		**5,10,000**	

M/s Mudra Pvt. Ltd an advertising agency provided services for ₹ 3,00,000 in the month April 2015 by charging Service Tax @14.5% to X Ltd. to promote products of Chennai and Bangalore factories. However, Hyderabad unit not received input services from M/s Mudra Pvt. Ltd.

In the given case X Ltd can distribute the CENVAT CREDIT on input service to Chennai and Bangalore factory, in respect of their turnover ratio. It means input service distributor should not distribute the CENVAT CREDIT on input service to the Hyderabad unit. Since, this unit were not received any input service.

4th line of Point (i) under Joint Charge Mechanism in Page No. 6.17 — Modified

Insurance Services: General Insurance Services or Life Insurance Services provided by the insurance agents to the insurance company. Hence, the insurance company being recipient of service is liable to pay service tax. However, an option to pay service tax at a rate other than standard rate (i.e. **14.5%)** is given an insurer carrying on life insurance business……

Point x, xi, xii inserted under List 1 - Service under Full Reverse Charge Mechanism in Page No. 6.20 — inserted

x.	Lottery agents	Selling or marketing agent of lottery tickets	Nil	100%
xi.	Manpower/ Security	Any individual/ HUF/ Firm/ LLP/ AOP located in taxable territory by way of — • supply of manpower for any purpose or, • security services	Nil [25% upto 31.03.2015]	100% [75% upto 31.03.2015]
xii.	Mutual Fund agent	Mutual Fund agent or distributor	Nil	100%

Table under List 2 - Service under Partial Reverse Charge Mechanism in Page No. 6.21 — Modified

List 2 - Service under Partial Reverse Charge Mechanism:

S. No.	Nature of Service	Description of services	Percentage of Service tax payable by the person providing service	Percentage of Service tax payable by the person receiving the service
i.	Rent-a-cab Service	Hiring of a motor vehicle designed to carry passengers (a) With abatement (i.e. 60%) (b) Without abatement	 Nil 50%	 100% 50%
ii.	Works contract service	Works contract service	50%	50%

Table under Interest on delayed payment of service tax - Section 75 of the Finance Act, 1994 in Page No. 6.22 — Modified

Sr. No.	Period	Rate of Interest
i.	Till 11-5-2001	1.5% per month
ii.	11-5-2001 to 11-5-2002	24% per annum
iii.	11-5-2002 to 10-9-2004	15% per annum
iv.	From 10-9-2004 to 31-3-2011	13% per annum
v.	From 1-4-2011	15% per annum (whose annual turnover of taxable services during the previous year is ₹ 60 lakh).
vi.	From 1-10-2014	Extent of delay for those assessees whose annual turnover exceeds ₹60 lacks in the previous year up to 6 months 18% From 6 months and upto 1 year 24% More than one year 30% Extent of delay for small assessees having annual turnover upto ₹60 lacks in the previous year up to 6 months 15% p.a. From 6 months and upto 1 year 21% p.a. More than one year 27% p.a.

Table under Point 6.6 [Rate of Service Tax] in Page No. 6.22 — Modified

The table below shows the rate of service tax applicable at the relevant period of time:

Sr. No.	Period	Rate of Service Tax	Rate of Education Cess
i.	Till 13-5-2003	5%	Nil
ii.	14-5-2003 to 9-9-2004	8%	Nil
iii.	10-9-2004	10%	2% of the S.T.
iv.	18-4-2006 onwards	12%	2% of the S.T. and 1% SAH w.e.f. 11th May 2007
v.	w.e.f. 24-2-2009	10%	2% plus 1% cess
vi.	w.e.f. 01 -04-2012	12%	2% plus 1% cess
vii.	w.e.f. 15 -11-2015	14.5% (including Swachh Bharat Cess	

Note: SAH means Secondary and Higher Education Cess.

Example 19-21 under Reverse Charge in Page No. 6.26 — Modified

Example 19: ABT transport providing goods transport services. 'A Ltd' sold goods from Mumbai to 'B Ltd' of Chennai. Freight charged by ABT transport for transporting said goods is ₹ 1,00,000 (exclusive of ST) as per consignment note, dated 1st July 2014. Freight paid by A Ltd on 15th September 2015.

You are required to answer:

(a) Name of provider of service and recipients of service?

(b) Who is liable to pay service tax and why?

(c) Due date of payment of service tax?

(d) Service Tax liability?

Answer :

(a) Service provider→ 'ABT' transport services.
Service recipients→ 'Both 'A Ltd' & 'B Ltd'.

(b) Either 'A Ltd' (or) 'B Ltd' being the recipients of the services. However, in the given case A Ltd is liable to pay service tax, since, freight paid by A Ltd.

(c) 6th October, 2014. In any other case 5th October, 2014.

(d)

Service tax liability	₹
Total amount of freight paid	1,00,000
Less: Abatement of 75% on the value of freight (₹ 1,00,000 x 75%)	(75,000)
Taxable Services	25,000

Service tax = ₹ 3,625 *(i.e.* ₹ 25,000 * 14.5/100)

Example 20: A Ltd. provided services valuing ₹ 8 lakhs during the financial year 2014-15. During 2015-2016, it has provided taxable services valuing ₹ 10 lakhs and has received payments towards payable services ₹ 8.5 lakhs. It has also received services in the nature of transport of goods by road on 1-4-2015, valuing ₹ 50,000 (exclusive of service tax), in respect of which it is the person liable to pay service tax. Freight has been paid on 10-6-2015. Compute the service tax, if any, payable by A Ltd. for the financial year 2015-2016. It is given that goods transport service is exempt to the extent of 75% of value thereof.

Answer :

Value of transport services received	=	₹ 50,000
Less: abatement 75% on ₹ 50,000	=	₹ 37,500
Taxable services		₹ 12,500
Service tax liability in the hands of A Ltd (2015-16)	=	₹ 1,812.50 (i.e. ₹ 12,500 x 14.5/100)

Note:

(i) The company is eligible for small service provider exemption during the financial year 2015-16, as the value of taxable services provided during financial year 2014-15 does not exceed ₹ 10 lakhs.

(ii) For the value of taxable services provided during the financial year 2015-16, no tax liability would arise, as the payments received or services provided do not exceed ₹ 10 lakhs. However, for goods transport agency services received, in respect of which M/s. A Ltd. is the person liable to pay service tax, the company cannot claim for small service provider exemption.

Interest

Example 21: Mr. X practicing Cost Accountant received ₹ 20,00,000 (exclusive of service tax)in the June 2015. He paid service tax on 26th July 2015. Gross receipt in the year 2014-15 is ₹ 25 lakhs.

You are required to calculate Interest on delay payment of service tax.

Answer :

Service tax @14.5% on ₹ 20,00,000 = ₹ 2,90,200.

Due date of payment of service tax = 6th July, 2015.

No. of days delay = 20 days

Interest = ₹ 2,383.56 (i.e. ₹ 2,90,000 × 15/100 × 20/365)

[Rest of the examples/ illustrations to be solved after considering service tax @14.5% in the same manner]

Point No. (5), (6), (9), (10), (11), (14) in Negative List in Page No. 6.28 — Modified

(5) Trading of goods	• Forward contracts in commodities • Commodity futures.	• Auxiliary services relating to future contracts or commodity futures provided by commodity exchanges, clearing houses or agents.	
(6) Process amounting to manufacture or production of goods	• Process for which Excise duty Exempted (i.e. Non-dutiable goods). • Excisable goods for which Central Excise Duty or State Excise are leviable.	Process do not amounting to manufacture. Alcoholic liquor for human consumption are also exempted from negative list.	Exemptions: • Job work in relation to agriculture, printing or textile processing • Cut and polished diamonds, jewellery • E.D. paid by manufacturer • Job work charges Upto ₹ 150 Lacs in relation to parts of cycles or sewing machines provided P.Y. ≤ ₹ 150 Lacs.
(9) Betting, gambling or lottery	Betting, gambling or lottery	• Auxiliary services used for organising/ promoting betting or gambling events • Discount earned by the lottery distributors/ agents • Service of promotion, marketing, organising etc. of lottery • Distributor or selling agent has option to pay S.T. at composition scheme as per Rule 6(7C) of Service Tax Rules, 1994.	Services by selling/ marketing agent of lottery tickets to a distributor or a selling agent were exempt from service tax. Now, this exemption has been withdrawn. These services are covered under 100% reverse charge and the distributor or selling agent of lottery would be liable to pay service tax.

(10) admission to entertainment events or access to amusement facilities — Not in Negative List [Service Tax leviable subject to exemptions]			
(11) Transmission or distribution of electricity by an Electricity transmission or distribution utility	Services provided by • The Central Electricity Authority • A State Electricity Board • A State Transmission Utility	Charges collected by a developer or a housing society for distribution of electricity within a residential complex Installation of gensets	
(14) Banking, financial and insurance services	I. Extending deposits, loans, or advances in so far as the consideration is represented by way of interest or discount II. Foreign currency exchange amongst banks or authorized dealers	• Interest portion of leasing or hire purchase after claiming an abatement @90%. • All other services of a banker or financial and insurance services • Foreman of chit fund liable to pay service tax without any abatement.	

1st line of Point (2) [Health Care Services] under Point 6.11.3 [Mega Exemptions] in Page No. 6.36 — Modified

Services in recognized systems of medicines in India are exempt. **Health care services included:**

(i) Health care services by a clinical establishment, an authorised medical practitioner or paramedics;

(ii) Services provided by way of transportation of a patient in an ambulance, other than those specified in (i) above.

In terms of the Clause (h) of section 2 of the Clinical Establishments Act, 2010, the following systems of medicines are recognized systems of medicines ……

Point (b) of Point (4) [Services by an entity registered under section 12AA of the Income tax Act, 1961 by way of charitable activities] under Point 6.11.3 [Mega Exemptions] in Page No. 6.37 — Modified

b) advancement of religion, spirituality **or yoga**.

Point (9) [Exemption for services provided to or by an educational institution] under Point 6.11.3 [Mega Exemptions] in Page No. 6.38 — Modified

(9) Exemption for services provided to or by an educational institution:

(a) by an educational institution to its students, faculty and staff;

(b) to an educational institution, by way of

(i) transportation of students, faculty and staff;

(ii) catering, including and mid-day meals scheme sponsored by the Government;

(iii) security or cleaning or housekeeping services performed in such educational institution;

(iv) services relating to admission to, or conduct of examination by, such institution.

(9A) Any services provided by-

(i) the National Skill Development Council set up by the Government of India.

(ii) a Sector Skill Council approved by the National Skill Development Corporation;

(iii) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;

(iv) a training partner approved by the National Skill Development Corporation or the Sector Skill Council;

In relation to (a)the National Skill Development Programme implemented by the National Skill Development Corporation; or (b) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (c) any other Scheme implemented by the National Skill Development Corporation.

Point (12) [Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration] under Point 6.11.3 [Mega Exemptions] in Page No. 6.39 — Modified

Exemption is available to the services by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of:

A. Omitted.

B. a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under Ancient Monuments and Archaeological Sites and Remains Act, 1958

C. Omitted.

D. canal, dam or other irrigation works

E. pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal

F. Omitted.

Point (16) [Services by artist in relation to folk or classical art] under Point 6.11.3 [Mega Exemptions] in Page No. 6.40 — Modified

The following services are exempted from service tax if provided by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, excluding services provided by such artist as a brand ambassador; and if the consideration charged for such performance is not more than ₹ one lakh.

The activities by a performing artist in folk or classical art forms of music, dance, or theatre are not subjected to service tax. All other activities by an artist in other art forms e.g. western music or dance, modern theatres, performance of actors in films or television serials would be taxable. Similarly activities of artists in still art forms e.g. painting, sculpture making etc. are taxable.

Point (20) [Exemption for transportation of certain goods, by rail or a vessel] under Point 6.11.3 [Mega Exemptions] in Page No. 6.41 — Modified

Services by way of transportation by rail or a vessel from one place in India to another of the following goods are exempted from service tax; -

(b) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap

(c) defence or military equipments;

(f) newspaper or magazines registered with the Registrar of Newspapers; (g) railway equipments or materials;

(h) agricultural produce;

(i) milk, salt and food grain including flours, pulses and rice;

(j) chemical fertilizer, organic manure and oil cakes; or

(k) cotton, ginned or baled.

Point (21) [Services by transport of essential goods etc by Goods Transport Agency (GTA) & Rail/vessel] under Point 6.11.3 [Mega Exemptions] in Page No. 6.42 — Modified

Services provided by a goods transport agency by way of transportation of -

(a) Agriculture produce;

(b) goods where gross amount charged for the transportation of goods on a consignment transported in a single goods carriage does not exceed one thousand five hundred rupees; or

(c) goods, where gross amount charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred fifty;

(d) Milk, salt, food grain including flours, pulses and rice;

(e) Chemical fertilizer, organic manure and oil cakes;

(f) Newspaper or magazines registered with the registrar of newspapers;

(g) Relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or

(h) Defense or military equipments:

(i) cotton, ginned or baled

Point (26) [Services of General insurance Business under the specified scheme] under Point 6.11.3 [Mega Exemptions] in Page No. 6.42 — Modified

Services of general insurance business provided under following schemes are exempted from service tax:

(a) Hut Insurance Scheme;

(b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme);

(c) Scheme for Insurance of Tribals;

(d) Janata Personal Accident Policy and Gramin Accident Policy;

(e) Group Personal Accident Policy for Self-Employed Women;

(f) Agricultural Pumpset and Failed Well Insurance;

(g) premia collected on export credit insurance;

(h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme approved by the Government of India and implemented by the Ministry of Agriculture;

(i) Jan Arogya Bima Policy;

(j) National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana);

(k) Pilot Scheme on Seed Crop Insurance;

(l) Central Sector Scheme on Cattle Insurance;

(m) Universal Health Insurance Scheme;

(n) Rashtriya Swasthya Bima Yojana; or

(o) Coconut Palm Insurance Scheme;

(p) Pradhan Mantri Suraksha Bima Yojana.

Point (26A) [Service of Life Insurance business provided under following schemes] under Point 6.11.3 [Mega Exemptions] in Page No. 6.43 — Modified

(a) Janashree Bima Yojana (JBY); or

(b) Aam Aadmi Bima Yojana (AABY).

(c) life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of fifty thousand rupees.

(d) Varishtha Pension Bima Yojana

(e) Pradhan Mantri Jeevan Jyoti Bima Yojana

(f) Pradhan Mantri Jan Dhan Yojana.

Point (29) [Services by the specified persons in respective categories are exempted from service tax] under Point 6.11.3 [Mega Exemptions] in Page No. 6.43 — Modified

Services by the following persons in respective capacities -

(a) sub-broker or an authorised person to a stock broker;

(b) authorised person to a member of a commodity exchange;

(f) selling agent or a distributer of SIM cards or recharge coupon vouchers;

(g) business facilitator or a business correspondent to a banking company with respect to a Basic Savings Bank Deposit Account covered by Pradhan Mantri Jan Dhan Yojana in the banking company's rural area branch, by way of account opening, cash deposits, cash withdrawals, obtaining e-life certificate, Aadhar seeding;

(ga) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in (d) above;

(gb) business facilitator or a business correspondent to an insurance company in a rural area; or

(h) sub-contractor providing services by way of works contract to another contractor providing works contract services which are exempt;

Point (30) [Services by way of job work] under Point 6.11.3 [Mega Exemptions] in Page No. 6.44 — Modified

Carrying out an intermediate production process as job work exempted from service tax if these services are in relation to -

(a) agriculture, printing or textile processing;

(b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 of the Central Excise Tariff Act ,1 985 (5 of 1986);

(c) any goods excluding alcoholic liquors for human consumption on which appropriate duty is payable by the principal manufacturer; or

(d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of one hundred and fifty lakh rupees in a financial year subject to the condition that such aggregate value had not exceeded one hundred and fifty lakh rupees during the preceding financial year;

Point (32) [Services by making telephone calls] under Point 6.11.3 [Mega Exemptions] in Page No. 6.44 — Omitted w.e.f. 01.04.2015

Point (37) [Services by way of transfer of a going concern] under Point 6.11.3 [Mega Exemptions] in Page No. 6.45 — Modified

Services by way of transfer of a going concern, as a whole or an independent part thereof; exempted from service tax. Predominant transfer of activity comprising service is not covered under exemption.

Point 43-47 under Point 6.11.3 [Mega Exemptions] in Page No. 6.45 — inserted

(43) Services by operator of Common Effluent Treatment Plant by way of treatment of effluent;

(44) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables;

(45) Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo;

(46) Service provided by way of exhibition of movie by an exhibitor to the distributor or an association of persons consisting of the exhibitor as one of its members;

(47) Services by way of right to admission to,-

(i) exhibition of cinematographic film, circus, dance, or theatrical performance including drama or ballet;

(ii) recognised sporting event;

(iii) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event, where the consideration for admission is not more than ₹ 500 per person.

Point (xaa) after Point (xa) under Useful Definition in Page No. 6.47 — Inserted

(xaa) "national park' has the meaning assigned to it in the clause (21) of the section 2 of The Wild Life (Protection) Act, 1972 (53 of 1972);

Point (zab) after Point (zaa) under Useful Definition in Page No. 6.47 — Modified

(zab) "recognised sporting event" means any sporting event,-

(i) organised by a recognised sports body where the participating team or individual represent any district, state, zone or country; (ii) covered under entry 11.

Point after (zh) under Useful Definition in Page No. 6.48 — Modified

(zi) "tiger reserve" has the meaning assigned to it in clause (e) of section 38K of the Wild Life (Protection) Act, 1972 (53 of 1972);

(zj) "trade union" has the meaning assigned to it in clause (h) of section 2 of the Trade Unions Act, 1926 (16 of 1926).

(zk) "wildlife sanctuary" means sanctuary as defined in the clause (26) of the section 2 of The Wild Life (Protection) Act, 1972 (53 of 1972);

(zl) "zoo" has the meaning assigned to it in the clause (39) of the section 2 of the Wild Life (Protection) Act, 1972 (53 of 1972).']

Serial No. 2,3,5,7,8,10 under Point 6.11.4 [Abatement Notification – Notification No. 26/2012] in Page No. 6.48 — Modified

TABLE

Sl No.	Description of taxable service	Percentage taxable sevice payable	Conditions
(1)	(2)	(3)	(4)
2	Transport of goods by rail	30	70% abatement is allowed, if Cenvat credit on — • inputs, capital goods and input services, • used for providing the taxable service, has not been taken under the Cenvat Credit Rules, 2004
3	Transport of passengers, with or without accompanied belongings by rail	30	70% abatement is allowed, if Cenvat credit on — • inputs, capital goods and input services, • used for providing the taxable service, has not been taken under the Cenvat Credit Rules, 2004

Sl No.	Description of taxable service	Percen-tage taxable sevice payable	Conditions
(1)	(2)	(3)	(4)
5	Transport of passengers by air, with or without accompanied belongings (i) Economy class (ii) Other than economy class	 40 60	CENVAT credit on inputs and capital goods, used for providing the taxable service, has not been taken under the provisions ot the CENVAT Credit Rules, 2004.
7	Services of goods transport agency in relation to transportation of goods.	30	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken by the service provider under the provisions of the CENVAT Credit Rules, 2004.
8	Services provided in relation to chit [withdrawn]		
10	Transport of goods in a vessel	30	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.

Rule 8A [Determination of point of taxation in case of copyrights, etc. (w.e.f 1-4-2012)] of Point of Taxation Rules in Page No. 6.57 — Modified

Rule 8A: POT in other cases [Best Judgment Assessment of POT]

Explanation to Section 67 [Valuation of taxable services for charging service tax] under heading [Valuation of Taxable Services] in Page No. 6.80— Modified

Explanation — For the purposes of this section, —

(a) (i) "consideration" includes any amount that is payable for the taxable services provided or to be provided;

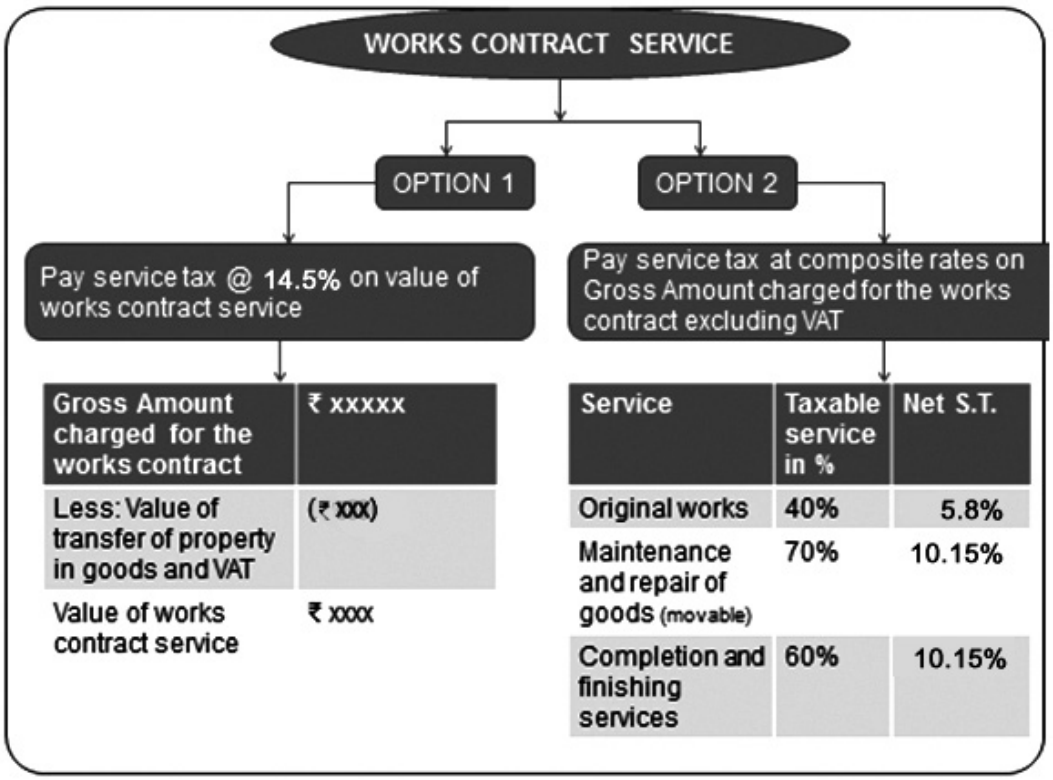
(i) any reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions, as may be prescribed;

(ii) 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.

(c) "gross amount charged" includes payment by cheque, credit card, deduction from account and any form of payment by issue of credit notes or debit notes and [book adjustment, and any amount credited or debited, as the case may be, to any account, whether called "Suspense account" or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise.

Rule 2A [Determination of value of service portion in the execution of a works contract] of Service Tax (Determination of Value) Rules, 2006 in Page No. 6.81— Modified

In case of works contract service provider has two options for payment of service tax. Once any one of the option has been claimed that is final for the given contract.



Net service tax in case of option 2: @40% on 14.5% in case of original works, 70% on 14.5% in case of maintenance and repair of goods in relation to movable and completion and finishing services.

Original works means –

(i) all new constructions,

(ii) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable

(iii) erection, commissioning or installation or plant, machinery or equipment or structures, whether pre-fabricated or otherwise.

Rule 6 [The commission costs, etc., will be included or excluded] of Service Tax (Determination of Value) Rules, 2006 in Page No. 6.85— Modified

Rule 6: The commission costs, etc., will be included or excluded

The value of the taxable services shall include,—

(i) The commission or brokerage charged by a broker on the sale or purchase of securities including the commission or brokerage paid by the stock-broker to any sub-broker;

(ii) The adjustments made by the telegraph authority from any deposits made by the subscriber at the time of application for telephone connection or pager or facsimile or telegraph or telex or for leased circuit;

(iii) The amount of premium charged by the insurer from the policy holder;

(iv) The commission received by the air travel agent from the airline;

(v) The commission, fee or any other sum received by an actuary, or intermediary or insurance intermediary or insurance agent from the insurer;

(vi) The reimbursement received by the authorized service station, from manufacturer for carrying out any service of any motor car, light motor vehicle or two wheeled motor vehicle manufactured by such manufacturer;

(vii) The commission or any amount received by the rail travel agent from the Railways or the customer;

(viii) The remuneration or commission, by whatever name called, paid to such agent by the client engaging such agent for the services provided by a clearing and forwarding agent to a client rendering services of clearing and forwarding operations in any manner;

(ix) The commission, fee or any other sum, by whatever name called, paid to such agent by the insurer appointing such agent in relation to insurance auxiliary services provided by an insurance agent.

(x) the amount realised as demurrage or by any other name whatever called for the provision of a service beyond the period originally contracted or in any other manner relatable to the provision of service.

The value of any taxable service, as the case may be, does not include —

(i) Initial deposit made by the subscriber at the time of application for telephone connection or pager or facsimile (FAX) or telegraph or telex or for leased circuit;

(ii) The airfare collected by air travel agent in respect of service provided by him;

(iii) The rail fare collected by rail travel agent in respect of service provided by him; and Interest on loans.

(iv) Interest on delayed payment of any consideration for the provision of services or sale of property, whether movable or immovable;

(v) the taxes levied by any Government on any passenger travelling by air, if shown separately on the ticket, or the invoice for such ticket, issued to the passenger;

(vi) accidental damages due to unforeseen actions not relatable to the provision of service.

Table under Point 6.16.3 [Option to pay an amount in case of lottery service under section 65(105)(zzzzn)] in Page No. 6.87— Modified

S.No.	Rate	Condition
i	₹ 8,200 on every ₹ 10 lakh (or part of ₹ 10 lakh) of aggregate face value of lottery tickets printed by the organizing State for a draw	If the lottery or lottery scheme is one where the guaranteed prize payout is more than 80%.
ii	₹ 12,800 on every ₹ 10 lakh (or part of ₹ 10 lakh) of aggregate face value of lottery tickets printed by the organizing State for a draw	If the lottery or lottery scheme is one where the guaranteed prize payout is less than 80%.

Example 57 under Point 6.16.3 [Option to pay an amount in case of lottery service under section 65(105)(zzzzn)] in Page No. 6.88— Modified

Example 57: M/s Martin Pvt. Ltd. is a distributor or selling agent authorized by a State in India. Following is the details of lotteries of a distributor to be organized by the State.

Particulars	Lakhpati (Printed)	Crorepati (Online)
No. of tickets proposed	2,50,000	3,00,000
Face value of ticket	₹ 10 each	₹ 500 each
Guaranteed prize payout	@60%	@90%
No. of tickets sold	2,00,000	2,35,000

Calculate the service tax under composition scheme as per Rule 6(7C) of the Service Tax Rules, 1994.

Answer:

Lakhpati lottery tickets - Printed

No. of tickets proposed	2,50,000 tickets
Face value of ticket	₹ 10 each
Total face value	₹ 25,00,000
Guaranteed prize payout	@60%
Multiples of TEN lakhs or part of TEN lakhs	3 (i.e. ₹ 25,00,000/₹ 10,00,000)
Service tax payable for every ₹ 10 lakhs or part thereof	₹ 12,800
Total Service tax (subject to Cess)	38,400 (i.e. 3 x ₹ 12,800)

Crorepati lottery tickets –Online

No. of tickets sold	2,35,000 tickets
Face value of ticket	₹ 500 each
Total face value	₹ 11,75,00,000
Guaranteed prize payout	@90%
Multiples of TEN lakhs or part of TEN lakhs	118 (i.e. ₹ 11 ,75,00,000/₹ 10,00,000)
Service tax payable for every ₹ 10 lakhs or part thereof	₹ 8,200
Total Service tax (subject to Cess)	₹ 9,67,600 (i.e. 118 x ₹ 8,200)

Total service tax liability payable by M/s Martin Pvt. Ltd.

Particulars	(₹)
Lakhpati lottery tickets - Printed	38,400
Crorepati lottery tickets – Online	9,67,600
Total	10,06,000

Point 6.16.5 [Penalty for Non-Payment or Delayed Payment of Service Tax (Section 76 of the Finance Act, 1994)] in Page No. 6.89 — Modified

6.16.5 Penalty for Non-Payment or Delayed Payment of Service Tax (Section 76 of the Finance Act, 1994) w.e.f. 14.05.2015:

(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 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 have been 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.]

Point 6.18.2 [Advance payment of Services Tax] in Page No. 6.90 — Modified

As per Rule 6(1A) of the Service Tax Rules, 1994

(i) The assessee may, on his own, pay Service tax in advance and adjust the amount towards future liability.

(ii) He shall intimate details of advance payment to the Jurisdiction Superintendent of Central Excise within 15 days of such payment.

(iii) He shall indicate the details of adjustment of advance payment in the returns.

1st line of Section 72A under Special Audit is modified and last part after explanation (ii) is deleted in Page No. 6.91

(1) If the Principal Commissioner of Central Excise or the Commissioner of Central Excise, has reasons to believe that any person liable to pay service tax (herein referred to as "such person"),- .....

Table under heading 6.21 [Penalties] in Page No. 6.94 — Modified

Sl. No.	Types of penalty	Penalty (prior to 8-4-2011)	Penalty (w.e.f. 8-4-2011)
i.	Non-filing of Return Section 77 of the Finance Act, 1994)	Upto ₹ 5,000	Upto ₹ 10,000
ii.	Not obtaining registration (section 77 of the Finance Act, 1944)	₹ 200 per day for every day of default or ₹ 5,000 whichever is higher.	₹ 200 per day for every day of default or ₹ 10,000 whichever is higher, starting with the first day after the due date, till the date of actual compliance;
iii.	Non-maintenance of proper books of accounts (Section 77 of the Finance Act, 1994)	Upto ₹ 5,000	Upto ₹ 10,000

Sl. No.	Types of penalty	Penalty (prior to 8-4-2011)	Penalty (w.e.f. 8-4-2011)
iv.	Non-appearance before Officers on issue of summons (Section 77 of the Finance Act, 1994)	₹ 200 per day for every day of default or ₹ 5,000 whichever is higher	₹ 200 per day for every day of default or ₹ 10,000 whichever is higher, starting with the first day after the due date, till the date of actual compliance;
v.	Failure to pay tax electronically when so required to pay (Section 77 of the Finance Act, 1994)	Upto ₹ 5,000	Upto ₹ 10,000
vi.	Issuing incorrect invoice or not accounting invoices in books (Section 77 of the Finance Act, 1994)	Upto ₹ 5,000	Upto ₹ 10,000
vii.	Section 78A – Evasion of service tax, – Isuance of invoice without provision of service, – availment of Cenvat Credit without recipt of service of goods, or – Service tax collected remaining overdue for more than 6 months.		Section 78A is being introduced, to make provision for imposition of penalty on director, manager, secretary or other officer of the company, who is in any manner knowingly concerned with specified contraventions. Penalty upto ₹ 1 Lakh
viii.	Fraud or suppression of acts (Section 78 of the Finance Act, 1994): Wrongful utilization of Cenvat credit by reason of fraud, collusion or any willful mis-statement etc. with the intent to evade the payment of service tax, the provider of service shall be liable to pay penalty in terms of the provisions of Section 78 of the Finance Act, 1994.	A show cause notice has been issued under Section 73(1A) of the Finance Act, 1994 by demanding Minimum 100% of service tax. Maximum 200% of service tax. The penalty will be reduced to 25%, if tax, interest and penalty paid within 30 days from the date of receipt of order of Central Excise Officer.	100% of the service tax, where the true and complete details of the transactions are not recorded in the specified records. This penalty cannot be waived. Penalty reduced to 15% of tax, if tax, interest and reduced penalty also paid within 30 days of receipt of notice. Penalty reduced to 25% of tax, if tax, interest and reduced penalty also paid within 30 days of receipt of order. Penalty cannot exceed 50% of service tax in case transactions recorded in specified records between 08.04.2011 to 14.05.2015. Notices issued on or after 14.05.2015 or order passed on or after 14.05.2015, period of 30 days to be reckoned from 14.05.2015.

Sl. No.	Types of penalty	Penalty (prior to 8-4-2011)	Penalty (w.e.f. 8-4-2011)
ix.	During the Department audit or verification of records of the assessee, they found short payment of service tax or sometimes, the amount erroneously refunded to the assessee. If all such transactions are completely recoded in the specified records (Section 73(4A) of the Finance Act, 1994 w.e.f. 8-4-2011). This provision is applicable to those assessees who have no intention to evade tax.		Omitted w.e.f 14.05.2015.

Point (ii) under Point 6.22.2 [Appeals] in Page No. 6.96— Modified

(ii) Appeal to Tribunal - Appeal to CESTAT (Tribunal) can be made against order of Commissioner passed by him under section 73, 83A or order of Commissioner (Appeals) passed by him under section 85 [order in appeal from order of AC/DC] by assessee or the department. Appeal has to be filed within three months from date of receipt of order by assessee, Board or Commissioner as the case may be. [section 86 of Finance Act, 1994].

Tribunal can condone the delay in filing appeal on showing sufficient cause. Appeal has to be accompanied with prescribed fees, if appeal is by the assessee. Tribunal is final fact finding authority.

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.

Example 61 under Practical Problems in Page No. 6.96— Modified

Example 61: Sun Academy Pvt. Ltd., is providing commercial training services since, 2009. During the year 2014-15 service tax liability arises to pay was ₹ 12,00,000. However, service tax paid was paid ₹ 8 lacs after adjustment of CENVAT CREDIT of ₹ 4 lacs. In the month of April 2015, 60 students were joined for pursing Point of Taxation Rules (from 1st April'15 to 10th April'15). Fee per student is ₹ 3,000 (inclusive of Service tax) paid by all students the month of June 2015. Service Tax @14.5% paid on 5th july 2015. Calculate the following:

(a) Point of Taxation
(b) Due Date
(c) Service Tax liability
(d) Interest if any

Answer:

(a) Point of taxation = April 2015
(b) Due date = 6th May 2015
(c) Service tax = ₹ 22,795 (i.e. 3,000 x 60 x 14.5/114.5)
(d) Interest = ₹ 586 (i.e. 19,800 x 18/100 x 60/365)

Example 68 under Practical Problems in Page No. 6.99— Modified

Example 68: A Ltd. provided Information Technology & Software services to B Ltd. in the month of July 2015. A bill inclusive of Service Tax issued in the month of July 2015. B Ltd paid ₹ 24,81,750 (after deducting TDS under sec 1 94J of the Income Tax Act, 1961 @10% towards TDS) in the month of August, 2015. You are required to calculate:

(a) Service tax liability

(b) Due date of payment of service tax.

Answer: **(Amount in ₹)**

(a)	Net payment received	=	24,81,750 = 90%
	TDS @ 10%	=	2,75,750 =10%
	Total bill value		27,57,500

Service tax liability = ₹ 27,57,500 x 14.5/114.5 = 3,49,203

(b) Due date of payment of service tax in case of electronically payment through interest banking is on or before 6th of August 2015.

Due date of payment of service tax in case of other than e-payment is on or before 5th August 2015.

Example 71 under Practical Problems in Page No. 6.100 — Modified

Example 71: X Ltd. is liable to pay service tax of ₹ 1,00,000 on or before 6th July 2015 but he paid it on 16th July 2015. What is the penalty for non-payment or delayed payment of service tax? Can this penalty be waived or reduced?

Answer:

(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 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 have been 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.]

Study Note - 7

Last line of Point "Self Assessment" under Point 7.1.2 [Assessee and Assessment] in Page No. 7.2 — Inserted

In case of service tax also, Section 70(1) of Finance Act, 1994 provides that every person liable to pay service tax shall himself assess the tax due and file return. The ST-3 return filed by assessee contains a 'Self-Assessment Memorandum'. Self assessed tax remaining unpaid to be recovered along with interest.

2nd line of Point "Interest payable/receivable" under Point 7.1.5 [Provisional Assessment] in Page No. 7.3 — Modified

If differential duty is found to be payable, interest as specified in Section 11AA of the Central Excise Act will be payable by assessee from first day of the month succeeding the month *for which* such amount is determined till date of payment thereof. [Rule 7(4)] .....

Point 7.2.2 [Adjudicating Authority] in Page No. 7.4 — Modified

(i) Any authority competent to pass any order or decision under Central Excise Act.

(ii) Commissioner (appeals) and CBEC are not adjudicating authority.

(iii) If amount of duty or Cenvat credit involved is up to ₹ 5,00,000, such demand can be made by Deputy/Assistant Commissioner of Central Excise.

(iv) If amount of duty or Cenvat credit involved is above ₹ 5,00,000 and upto ₹ 50,00,000 such demand can be made by Additional Commissioner of Central Excise.

(v) Demand of duty or demand of CENVAT credit of any amount (i.e. without any upper limit) can be made by Commissioner or Commissioner of Central Excise.

(vi) Gazetted officer rank starts from Superintendent of Central Excise.

Section 11A(5) [Fraud noticed during the audit, investigation but the details are available in the specified records Section] of Central Excise Act in Page No. 7.6 — Omitted w.e.f. 14.05.2015

Section 11A(6) [Fraud noticed during the audit, investigation but the details are available in the specified records, where as dues has been paid before issue of show cause notice] of Central Excise Act in Page No. 7.6 — Omitted w.e.f. 14.05.2015

Section 11A(7) of Central Excise Act in Page No. 7.7 — Removed

Section 11A(11) of Central Excise Act in Page No. 7.7 — Modified

Under section 11A(11) the Central Excise Officer shall determine the amount of duty of excise under section 11A(10) within SIX months from the date of notice where it is possible to do so, in respect of cases falling under section 11A(1). Cases falling under section 11A(4), within ONE year from the date of notice.

Point (f) of Point (iv) [Relevant Date] under heading 'Important points' after Section 11A(15) of Central Excise Act in Page No. 7.8 — Inserted

Relevant Date: it means it may be any one of the following:

(a) date of actual filling of monthly return, or

(b) Date on which return should have been filed, when required to be filed but not filed, or

(c) If no return is required to be filed under the Central Excise, then the date of payment of duty, or

(d) In case of provisional assessment, relevant date is the date of adjustment of duty after final adjustment.

(e) In case of erroneous refund, date of such refund.

(f) **In the case where only interest is to be recovered, the date of payment of duty to which such interest relates.**

Point 7.2.7 [Omission to Give Correct Information Cannot be Construed As 'Suppression of Facts' for the Purpose of the Proviso to Section 11A(1) of The Central Excise Act, 1944] in Page No. 7.8 — Removed

Section 11AC(1)(a) [Penalty equal to the duty evaded] of Central Excise Act under Point 7.4.2 [Penalty Provisions] in Page No. 7.11 — Modified

Where any duty of excise has not been levied or paid or short levied or short paid or erroneously refunded, by any reason other than the reason of fraud or collusion or any willful miss-statement or suppression of facts or contravention of any of the provisions of this Act or of the rules made there under with intent to evade payment of duty, the person who is liable to pay duty as determined under section 11A(10) shall also be liable to pay a penalty not exceeding 10% of the duty so determined or ₹ 5,000 whichever is higher. Provisions are same even in the case of Customs Act, 1962 under section 114A.

From Section 11AC(1)(b) of Central Excise Act to Section 11AC(2) of Central Excise Act under Point 7.4.2 [Penalty Provisions] in Page No. 7.11 — Modified

11AC(1)(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;

11AC(1)(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 willful 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:

11AC(1)(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;

11AC(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 11 A, 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.

Point 7.4.8 [Provisional Attachment of Property (Section 11DDA of Central Excise Act, 1944 Section 28BA of Customs Act, 1962 / Section 73C of Finance Act, 1994)] in Page No. 7.14 — Modified

(1) Where during the pendency of any proceedings under section 11A or section 11D, the Central Excise Officer is of the opinion that for the purpose of protecting the interest of revenue, it is necessary so to do, he may, with the previous approval of the Principal Commissioner of Central Excise or Commissioner of Central Excise, by order in writing, attach provisionally any property belonging to the person on whom notice is served under section 11A or sub-section (2) of section 11D, as the case may be, in accordance with the rules made in this behalf under section 142 of the Customs Act.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1).

2nd line of Point (1) of Section 35 [Appeals to Commissioner (Appeals)] of Central Excise Act under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.16 — Modified

Any person aggrieved by any decision or order passed under this Act by a Central Excise Officer, lower in rank than a Principal Commissioner of Central Excise or Commissioner of Central Excise, may appeal to the Commissioner of Central Excise (Appeals) hereafter in this Chapter referred to as the Commissioner (Appeals) within sixty days from the date of the communication to him of such decision or order .....

Point (5) of Section 35A [Procedure in appeal] of Central Excise Act under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.17 — Modified

On the disposal of the appeal, the Commissioner (Appeals) shall communicate the order passed by him to the appellant, the adjudicating authority, the Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise and Principal Commissioner or the Commissioner of Central Excise.

Point (a), (c) and (d) of Point (1) of Section 35B [Appeals to the Appellate Tribunal] of Central Excise Act under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.17 — Modified

Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order —

(a) a decision or order passed by the Principal Commissioner of Central Excise or the Commissioner of Central Excise as an adjudicating authority;

(c) an order passed by the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 (hereafter in this Chapter referred to as the Board) or the Appellate Principal Commissioner of Central Excise or Commissioner of Central Excise under section 35, as it stood immediately before the appointed day;

(d) an order passed by the Board or Principal Commissioner of Central Excise or the Commissioner of Central Excise, either before or after the appointed day, under section 35A, as it stood immediately before that day:

Proviso and explanation to Point (2) of Section 35B [Appeals to the Appellate Tribunal] of Central Excise Act under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.18 — Modified

The Committee of Commissioners of Central Excise may, if it is of opinion that an order passed by the Appellate Commissioner Excise under section 35, as it stood immediately before the appointed day, or the Commissioner (Appeals) under section 35A, is not proper, direct any Central Excise Officer authorised by him in this behalf to appeal on its behalf to the Appellate Tribunal against such order.

Provided that where the Committee of Commissioners of Central Excise differs in its opinion regarding the appeal against the order Commissioner (Appeals), it shall state the point or points on which it differs and make a reference to the jurisdictional Principal Chief Commissioner of Central Excise or Chief Commissioner of Central Excise who shall, after considering the facts of the order, if is of the opinion that the order passed by the Commissioner (Appeals) is not legal or proper, direct any Central Excise Officer to appeal to the Appellate Tribunal against such order.

Explanation — For the purposes of this sub-section, "jurisdictional Chief Commissioner;" means the Principal Chief Commissioner of Central Excise or the Chief Commissioner of Central Excise having jurisdiction over the adjudicating authority in the matter.

Point (3), (6) and (7) of Section 35B [Appeals to the Appellate Tribunal] of Central Excise Act under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.18 — Modified

(3) Every appeal under this section shall be filed within three months from the date on which the order sought to be appealed against is communicated to the Principal Commissioner of Central Excise or the Commissioner of Central Excise, or, as the case may be, the other party preferring the appeal.

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, irrespective of the date of demand of duty and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of, —

(a) where the amount of duty and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;

(b) where the amount of duty and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees;

(c) where the amount of duty and interest demanded and penalty levied by any Central Excise Officer in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees:

(7) Every application made before the Appellate Tribunal, —

(a) in an appeal for rectification of mistake or for any other purpose; or

(b) for restoration of an appeal or an application,

shall be accompanied by a fee of five hundred rupees :

Provided that no such fee shall be payable in the case of an application filed by or on behalf of Principal Commissioner of Central Excise or the Commissioner of Central Excise under this sub- section.

Point 7.5.2 [Departmental Appeals not Allowed] under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.19 — Modified

The Central Board of Excise and Customs (CBE&C) has issued instructions (vide F.No. 390/ Misc./ 163/2010- JC dated 17-8-2011) by fixing the following different minimum monetary limits for filing appeals to the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) and High Court:

(i) Departmental appeals in the Tribunal (CESTAT) shall not be filed in cases where the duty involved is below ₹ 10,00,000.

(ii) Departmental appeals in the High Court should not be filed in cases where the duty involved is below ₹ 15,00,000.

(iii) Departmental appeals in the Supreme Court should not be filed in cases where the duty involved is below ₹ 25,00,000.

However, Departmental appeals in case of adverse judgments relating to the following disputes shall be allowed irrespective of the amount involved.

(a) Where the constitutional validity of the provisions of an Act or Rule is under challenge.

(b) Where notification/instruction/order or Circular has been held illegal or ultra virus.

Example 10 under Point 7.5.2 [Departmental Appeals not Allowed] in Page No. 7.19 — Modified

Example 10: X Ltd. received a protective demand notice from the department on 18.12.2015 under Section 11A of the Central Excise Act, 1944 where the duty demanded is ₹ 5,00,000, in addition to interest of ₹ 10,000 and Penalty of ₹ 1,00,000. The assessee went for appeal and filed the case in the Commissioner (Appeals) on 18.01.2016. Subsequently on 30.03.2016, the Commissioner (Appeals) decided the case in favour of the assessee. The Committee of Commissioners can delegate the authority to the department officers to go for further appeal on its behalf to the Appellate Tribunal (CESTAT) against such order.

Answer:

As per the Central Board of Excise and Customs (CBE&C) instructions (vide F.No. 390/Misc./163/ 2010-JC dated 17-8-2011), in a case involving duty below ₹ 10,00,000, no appeal shall henceforth (i.e. w.e.f. 17-12-2015) be filed in the Tribunal (CESTAT).

Hence, in the given case, no appeal shall henceforth be filed in the Tribunal as the duty involved is below the monetary limit of ₹ 10,00,000.

From Point (2) to Point (4) of Section 35C [Orders of Appellate Tribunal] of Central Excise Act under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.20 — Modified

(2) The Appellate Tribunal may, at any time within six months from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (1) and shall make such amendments if the mistake is brought to its notice by the Principal Commissioner of Central Excise or the Commissioner of Central Excise or the other party to the appeal:

Provided that an amendment which has the effect of enhancing an assessment or reducing & refund or otherwise increasing the liability of the other party, shall not be made under this sub- section, unless the Appellate Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

(2A) The Appellate Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of three year from the date on which such appeal is filed:

(3) The Appellate Tribunal shall send a copy of every order passed under this section to the Principal Commissioner of Central Excise or Commissioner of Central Excise and the other party to the appeal.

(4) Save as provided in Section 35G or 35L orders passed by the Appellate Tribunal on appeal shall be final.

Last line of Section 35D [Procedure of Appellate Tribunal] of Central Excise Act under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.21 — Modified

The amount of fine or penalty involved, does not exceed **fifty lakh** rupees.

Point (1) and (2) of Section 35E [Powers of Board or Commissioner of Central Excise to pass certain orders] of Central Excise Act under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.21 — Modified

(1) The Committee of Chief Commissioners of Central Excise may, of its own motion, call for and examine the record of any proceeding in which Principal Commissioner of Central Excise or a Commissioner of Central Excise as an adjudicating authority has passed any decision or order under this Act for the purpose of satisfying itself as to the legality or propriety of any such decision or order and may, by order, direct such Commissioner or any other Commissioner to apply to the Appellate Tribunal for the determination of such points arising out of the decision or order as may be specified by the Committee of Chief Commissioners of Central Excise in its order.

Provided that where the Committee of Chief Commissioners of Central Excise differs in its opinion as to the legality or propriety of the decision or order of the Commissioner of Central Excise, it shall state the point or points on which it differs and make a reference to the Board which, after considering the facts of the decision or order, if is of the opinion that the decision or order passed by the Principal Commissioner of Central Excise or the Commissioner of Central Excise is not legal or proper, may, by order, direct such Commissioner or any other Commissioner to apply to the Appellate Tribunal for the determination of such points arising out of the decision or order, as may be specified in its order.

(2) The Principal Commissioner of Central Excise or Commissioner of Central Excise may, of his own motion, call for and examine the record of any proceeding in which an adjudicating authority subordinate to him has passed any decision or order under this Act for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may, by order, direct such authority or any Central Excise Officer subordinate to him to apply to the Commissioner (Appeals) for the determination of such points arising out of the decision or order as may be specified by the Principal Commissioner of Central Excise or Commissioner of Central Excise in his order.

Point (1A) of Section 35EE [Revision by Central Government] of Central Excise Act under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.22 — Modified

(1A) The Principal Commissioner of Central Excise or Commissioner of Central Excise may, if he is of the opinion that an order passed by the Commissioner (Appeals) under section 35A is not legal or proper, direct the proper officer to make an application on his behalf to the Central Government for revision of such order.

Point (i) of Section 35F [Deposit of certain percentage of duty demanded or penalty imposed before filling appeal] of Central Excise Act under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.23 — Modified

The Tribunal or the Commissioner (Appeals), as the case may be, shall not entertain any appeal,—

(i) under sub-section (1) of section 35, unless the appellant has deposited seven and a half per cent, of the duty demanded or penalty imposed or both, in pursuance of a decision or an order passed by an officer of Central Excise lower in rank than Principal Commissioner of Central Excise or the Commissioner of Central Excise;

Section 35FF [Interest on delayed refund of amount deposited under the proviso to section 35F] of Central Excise Act under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.23 — Modified

Where an amount deposited by the appellant u/s 35F is required to be refunded consequent upon the order of the appellate authority, there shall be paid to the appellant interest at such rate, not below five percent and not exceeding thirty six percent per annum as is for the time being fixed by the Central Government, by notification in the official Gazette, on such amount from the date of payment of the amount till the date of refund of such amount.

Provided that the amount deposited u/s 35F, prior to the commencement of the Finance Act, 2014, shall continue to be governed by the provisions of section 35FF as it stood before the commencement of the said Act.

Point (2) of Section 35G [Appeal to High Court] of Central Excise Act under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.24 — Modified

(2) The Principal Commissioner of Central Excise or the Commissioner of Central Excise or the other party aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be

(a) filed within one hundred and eighty days from the date on which the order appealed against is received by the Commissioner of Central Excise or the other party;

(b) accompanied by a fee of two hundred rupees where such appeal is filed by the other party;

(c) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

Point (a) of Point (1) of Section 37C [Service of decisions, orders, summons, etc.] of Central Excise Act under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.28 — Modified

(1) Any decision or order passed or any summons or notices issued under this Act or the rules made thereunder, shall be served, —

(a) by tendering the decision, order, summons or notice, or sending it by registered post with acknowledgement due, or by sped post with proof of delivery or by courier approved by the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 to the person for whom it is intended or his authorised agent, if any;

Section 84 [Appeals to Commissioner of Central Excise (Appeals)] of Finance Act, 1994 under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.29 — Modified

(1) The Principal Commissioner of Central Excise or the Commissioner of Central Excise may, of his own motion, call for and examine the record of any proceedings in which an adjudicating authority subordinate to him has passed any decision or order under this Chapter for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may, by order, direct such authority or any Central Excise Officer subordinate to him to apply to the Commissioner of Central Excise (Appeals) for the determination of such points arising out of the decision or order as may be specified by the Principal Commissioner of Central Excise or the Commissioner of Central Excise in his order.

(2) Every order under sub-section (1) shall be made within a period of three months from the date of communication of the decision or order of the adjudicating authority.

(3) Where in pursuance of an order under sub-section (1), the adjudicating authority or any other officer authorised in this behalf makes an application to the Commissioner of Central Excise (Appeals) within a period of one month from the date of communication of the order under sub-section (1) to the adjudicating authority, such application shall be heard by the Commissioner of Central Excise (Appeals), as if such application were an appeal made against the decision or order of the adjudicating authority and the provisions of this Chapter regarding appeals shall apply to such application.

Explanation. — For the removal of doubts, it is hereby declared that any order passed by an adjudicating officer subordinate to the Principal Commissioner of Central Excise or the Commissioner of Central Excise immediately before the commencement of clause (C) of section 113 of the Finance (No. 2) Act, 2009, shall continue to be dealt with by the Commissioner of Central Excise as if this section had not been substituted.

Point (1) and (3A) of Section 85 [Appeals to the Commissioner of Central Excise (Appeals)] of Finance Act, 1994 under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.29 — Modified

(1) Any person aggrieved by any decision or order passed by an adjudicating authority subordinate to the Principal Commissioner of Central Excise or the Commissioner of Central Excise may appeal to the Commissioner of Central Excise (Appeals).

(3A) An appeal shall be presented within two months from the date of receipt of the decision or order of such adjudicating authority, made on and after the Finance Bill, 2012 receives the assent of the President, relating to service tax, interest or penalty under this Chapter:

Provided that the Commissioner of Central Excise (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of two months, allow it to be presented within a further period of one month.

Point (1), (1A), (2), (2A), (3),(4) and (6A) of Section 86 [Appeals to Appellate Tribunal] of Finance Act, 1994 under heading 7.5 [Appeal Provisions under Central Excise, Service Tax And Customs] in Page No. 7.29 — Modified

(1) Save as otherwise provided herein an assessee aggrieved by an order passed by a Commissioner of Central Excise under section 73 or section 83A, or an order passed by a Principal Commissioner of Central Excise or a Commissioner of Central Excise (Appeals) under section 85, may appeal to the Appellate Tribunal against such order within three months of the date of receipt of the order.

(1A) (i) The Board may, by order, constitute such Committees as may be necessary for the purposes of this Chapter.

(ii) Every Committee constituted under clause (i) shall consist of two Principal Chief Commissioners of Central Excise or Chief Commissioners of Central Excise or two Principal Commissioners of Central Excise or Commissioners of Central Excise, as the case may be.

(2) The Committee of Principal Chief Commissioner of Central Excise or Chief Commissioners of Central Excise may, if it objects to any order passed by the Principal Commissioner or 'Commissioner of Central Excise under section 73 or section 83A, direct the Commissioner of Central Excise to appeal to the Appellate Tribunal against the order.

Provided that where the Committee of Principal Chief Commissioners or Chief Commissioners of Central Excise differs in its opinion against the order of the Principal Commissioner or the Commissioner of Central Excise, it shall state the point or points on which it differs and make a reference to the Board which shall, after considering the facts of the order, if is of the opinion that the order passed by the Principal Commissioner or the Commissioner of Central Excise is not legal or proper, direct the Principal Commissioner or the Commissioner of Central Excise to appeal to the Appellate Tribunal against the order.

(2A) The Committee of Commissioners may, if it objects to any order passed by the Commissioner of Central Excise (Appeals) under section 85, direct any Central Excise Officer to appeal on its behalf to the Appellate Tribunal against the order.

Provided that where the Committee of Commissioners differs in its opinion against the order of the Commissioner of Central Excise (Appeals), it shall state the point or points on which it differs and make a reference to the jurisdictional Principal Chief Commissioner or Chief Commissioner who shall, after considering the facts of the order, if is of the opinion that the order passed by the Commissioner of Central Excise (Appeals) is not legal or proper, direct any Central Excise Officer to appeal to the Appellate Tribunal against the order.

Explanation.— For the purposes of this sub-section, "jurisdictional Principal Chief Commissioner or Chief Commissioner" means the Principal Chief Commissioner or the Chief Commissioner having jurisdiction over the concerned adjudicating authority in the matter.

(3) Every appeal under sub-section (2) or sub-section (2A) shall be filed within four months from the date on which the order sought to be appealed against is received by the Committee of Principal Chief Commissioner or Chief Commissioners or, as the case may be, the Committee of Commissioners.'

(4) The Principal Commissioners or the Commissioner of Central Excise or any Central Excise Officer subordinate to him or the assessee, as the case may be, on receipt of a notice that an appeal against the order of the Principal Commissioner or the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals) has been preferred under sub-section (1) or sub-section (2) or sub-section (2A) by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within forty-five days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Principal Commissioner or the Commissioner of Central Excise or the Commissioner of Central Excise (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub section (3).

(6A) Every application made before the Appellate Tribunal, —

(a) in an appeal for rectification of mistake or for any other purpose; or

(b) for restoration of an appeal or an application,

shall be accompanied by a fee of five hundred rupees :

Provided that no such fee shall be payable in the case of an application filed by the Principal Commissioner of Central Excise or the Commissioner of Central Excise or Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be under this sub-section.

Matter before Section 31 [Definitions] of Central Excise Act under heading 7.6 [Settlement Commission] in Page No. 7.31 — Removed

Part 'Remanded proceedings- Not pending proceedings' of Section 31(C) of Central Excise Act under heading 7.6 [Settlement Commission] in Page No. 7.32 — Modified

However, when any proceeding is referred back by any court, Appellate Tribunal or any other authority, to the adjudicating authority for a fresh adjudication/ decision, then such proceeding shall not be deemed to be a 'Proceeding Pending' for the purposes of the above. Therefore, no settlement application can be filed in respect of cases remanded for fresh adjudication.

Proviso part to Section 32 [Customs and Central Excise Settlement Commission] of Central Excise Act under heading 7.6 [Settlement Commission] in Page No. 7.33 — Removed

Section 32C [Power of Chairman to transfer cases from one Bench to another] of Central Excise Act under heading 7.6 [Settlement Commission] in Page No. 7.34 — Modified

On the application of the assessee or the Principal Chief Commissioner the Chief Commissioner or Commissioner of Central Excise and after giving notice to them, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to another Bench.

Point (II) and (III) under Point 7.6.3 [Section 32E (Corresponding Customs Section 127B)] of Central Excise Act under heading 7.6 [Settlement Commission] in Page No. 7.34 — Modified

(II) Cases for which no settlement application can be made: The Settlement Commission cannot entertain the following cases -

(a) cases pending with the Appellate Tribunal or any Court;

(b) cases involving the interpretation of the classification goods under the Customs/Excise Tariff;

(c) every application shall be accompanied by such fees as may be prescribed.

(d) An application made under this section shall not be allowed to be withdrawn by the applicant.

(III) Fees for filing an application : An application to Settlement Commission shall be made in prescribed form with a fee of ₹ 1,000 and cannot withdrawn by the applicant.

Point (i), (ii), and (iv) of Section 32F [(corresponding Customs section 127C) provides for the following procedure to be followed by the Settlement Commission for disposal of a case] of Central Excise Act under heading 7.6 [Settlement Commission] in Page No. 7.35 — Modified

(i) Acceptance or Rejection of Application: On receipt of an application for settlement, the Settlement Commission shall, within 7 days from the date of receipt of the application, issue a notice to the applicant to explain in writing as to why the application made by him should be allowed to be proceeded with. After taking into consideration the explanation provided by the applicant, the Settlement Commission, shall, within a period of 14 days from the date of the notice, pass an order either allowing the application to be proceeded with, or rejecting the application. In case of rejection, the proceedings before the Settlement Commission shall abate on the date of rejection.

However, where no notice has been issued or no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.

A copy of every such order shall be sent to applicant and to the Principal Commissioner or the Commissioner having jurisdiction.

(ii) Calling of Report from Principal Commissioner or Commissioner when Application Allowed: Where an application is allowed or deemed to have been allowed to be proceeded with, the Settlement Commission shall, within seven days from the date of order allowing the application, call for a report along with relevant records from the Principal Commissioner or the Commissioner having jurisdiction and the Commissioner shall furnish the report within 30 days of receipt of communication from the Settlement Commission.

However, if the Commissioner does not furnish the report within 30 days as aforesaid, the Settlement Commission shall proceed further in the matter without the report of the Commissioner.

(iv) Passing of Final Order: After examination of the records and the report the Principal Commissioner or the Commissioner of Central Excise/Customs including the report of the Commissioner(Investigation) if any, and after giving an opportunity of being heard both to the applicant and to the Principal Commissioner or the Commissioner and examining such other evidence as may be placed before it, the Settlement Commission shall pass final order as it thinks fit in accordance with the provisions of the Act.

The order shall be passed only on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Principal Commissioner or the Commissioner or Commissioner (Investigation).

Section 32H [Power of Settlement Commission to reopen completed proceedings] of Central Excise Act under heading 7.6 [Settlement Commission] in Page No. 7.38 — Omitted w.e.f. 14.05.2015

Point 7.6.7 [Bar on subsequent application for settlement in certain cases [Section 32-O (Customs Section 127L)] and 7.6.8 [Adjudicating Authority Can Track Information Submitted in the Office of Settlement Commission] in Page No. 7.39 — Modified

(i) an order of settlement provides for the imposition of a penalty on the person who made the application for settlement, on the ground of concealment of particulars of his duty liability; or

(ii) after the passing of an order of settlement in relation to a case, as aforesaid, such person is convicted of any offence under this Act in relation to that case; or

Explanation — In this clause, the concealment of particulars of duty liability relates to any such concealment made from the Central Excise Officer.

(iii) the case of such person is sent back to the Central Excise Officer having jurisdiction by the Settlement Commission under section 32L then, applicant shall not be entitled to apply for settlement in relation to any other matter.

Point (b) of Section 96A [Definitions] of Finance Act, 1994 in Page No. 7.40 — Modified

(b) "applicant" means —

(i) (a) a non-resident setting up a joint venture in India in collaboration with a non- resident or a resident; or

(b) a resident setting up a joint venture in India in collaboration with a non-resident; or

(c) a wholly owned subsidiary Indian company, of which the holding company is a foreign company,

who or which, as the case may be, proposes to undertake any business activity in India;

(ii) a joint venture in India; or

(iii) resident falling within any such class or category of persons, as the Central Government may, by notification in the Official Gazette, specify in this behalf,

and which or who, as the case may be, makes application for advance ruling under sub-section (1) of section 96C;

Explanation. — For the purposes of this clause, "joint venture in India" means a contractual arrangement whereby two or more persons undertake an economic activity which is subject to joint control and one or more of the participants or partners or equity holders is a nonresident having substantial interest in such arrangement;

Point (1), (3) and (7) of Section 96D [Procedure on receipt of application] of Finance Act, 1994 in Page No. 7.41 — Modified

(1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the Principal Commissioner of Central Excise or the Commissioner of Central Excise and, if necessary, call upon him to furnish the relevant records :

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the Principal Commissioner of Central Excise or the Commissioner of Central Excise.

(3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the Principal Commissioner or the Commissioner of Central Excise.

(7) A copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the Principal Commissioner or the Commissioner of Central Excise, as soon as may be, after such pronouncement.

Point (c) of Point (1) of Section 96E [Applicability of advance ruling] of Finance Act, 1994 in Page No. 7.42 — Modified

(c) on the Principal Commissioner or the Commissioner of Central Excise, and the Central Excise authorities subordinate to him, in respect of the applicant.

Section 96F [Advance ruling to be void in certain circumstances] of Finance Act, 1994 in Page No. 7.42 — Modified

(1) Where the Authority finds, on a representation made to it by the Principal Commissioner or the Commissioner of Central Excise or otherwise, that an advance ruling pronounced by it under sub-section (4) of section 96D has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void ab initio and thereupon all the provisions of this Chapter shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

(2) A copy of the order made under sub-section (1) shall be sent to the applicant and the Principal Commissioner or the Commissioner of Central Excise.

Explanation to Point (c) of Section 23A [(Definitions] of Central Excise Act in Page No. 7.43 — Modified

Explanation.— For the purposes of this clause, "joint venture in India" means a contractual arrangement whereby two or more persons undertake an economic activity which is subject to joint control and one or more of the participants or partners or equity holders are a non-resident having substantial interest in such arrangement;

Point 7.7.1 [As Per Section 23A(C) of the Central Excise Act, an Application for Advance Ruling can be Made by any of the following if they Propose to Undertake any business activity in India] in Page No. 7.43 — Modified

(i) A Non-resident setting up a joint venture in India in collaboration with a non-resident or a resident.

(ii) A resident setting up a joint venture in India in collaboration with a non-resident.

(iii) A wholly owned subsidiary Indian company, of which the holding company is a foreign company, such holding company proposes to undertake any business activity in India.

(iv) A joint venture in India in which at least one of the participants, partners, or equity share holders is a non-resident having substantial interest in the joint venture.

(v) As may be specified by the Central Government of India by issuing a notification.

Point (1) and (7) of Section 23D [(Procedure on receipt of application] of Central Excise Act in Page No. 7.45 — Modified

(1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the Principal Commissioner of Central Excise or the Commissioner of Central Excise and, if necessary, call upon him to furnish the relevant records:

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the Principal Commissioner of Central Excise or the Commissioner of Central Excise.

(7) A copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to Principal Commissioner or the Commissioner of Central Excise, as soon as may be, after such pronouncement.

Point (c) of Point (1) of Section 23E [Applicability of advance ruling] of Central Excise Act in Page No. 7.46 — Modified

(c) on the Principal Commissioner or the Commissioner of Central Excise, and the Central Excise authorities subordinate to him, in respect of the applicant.

Study Note - 8

Point 8.1.2 [State VAT is Diluted Version of VAT] in Page No. 8.2 — Modified

The VAT as introduced, is a diluted version of VAT and some compromises have been made. There is no credit of Central Sales Tax paid on inter-state purchases. This problem will not arise if CST rate is reduced to 0% on 1-4-2010, as planned and inter-state sale is made 'zero rated'.

If goods are sent outside State on stock transfer basis, credit (set off) of tax paid on inputs is available only to the extent of tax paid in excess of 2%. Thus, credit (set off) to the extent of 2% tax on inputs is lost. It is not clear what will be position when CST rate is brought down to Nil. Thus, the VAT as introduced is State VAT and not a National VAT.

Example under Point 8.7 [Valuation of Taxable Turnover] in Page No. 8.15 — Modified

Example: Mr. Amit the owner of a restaurant selling food. He opted to pay the VAT by way of composition of tax. For January, 2016, his total sales was ₹1,50,000. He also purchased the input material after payment of VAT of ₹3,000.

The net VAT payable is as follows:

Particulars	Amount (₹)
Output tax payable = ₹1,50,000 × 60% × 12.5%	11,250
Less : Input Tax Credit	Nil
VAT Payable	11,250

Example 4 under 'Practical Problems on VAT' in Page No. 8.21 — Modified

Example 4: Purchases by A & Co. for the month of December 2015 are as follows:

(1) ₹ 1,00,000 at 5% Vat

(2) ₹ 5,00,000 at 13.5% Vat.

Sales of A & Co. for the month of December 2015 are as follows:

(1) Sales of ₹ 3,00,000 at 5% Vat

(2) Sales of ₹ 3,00,000 at 13.5% Vat

Compute eligible inputs tax credit and Vat payable for the month.

Answer:

(a) Statement showing VAT payable on sales

Description	**Value (₹)**	**VAT (₹)**
5% VAT Sales	3,00,000	15,000
13.5% VAT Sales	3,00,000	40,500
Total	6,00,000	55,500

Eligible input tax credit is ₹ 55,500

(b) Statement showing input tax credit:

Description	Value (₹)	ITC (₹)
5% VAT Purchases (raw material)	1,00,000	5,000
13.5% VAT Purchases (Plant and machinery)	5,00,000	67,500
Total	6,00,000	72,500

Excess Input Tax Credit (ITC) carried forward into next month:

VAT payable on Sales	=	₹ 55,500
Less: ITC	=	₹ 72,500
Excess ITC	=	₹ 17,000

Example 10 under 'Practical Problems on VAT' in Page No. 8.24 — Modified

Example 10: Mr. X is regularly paying excise duty and value added tax on his manufacturing and sales activities respectively. He seeks your advice while calculating the Value Added Tax on sales as well as net VAT liability from the following information:

Purchases from local market (VAT inclusive of @13.5%) ₹ 1,41,875.

Manufacturing expenses is ₹ 75,000.

Profit on Cost @ 80%.

Excise Duty @12.5%

Output VAT @13.5%

Answer:

Cost of Purchases	₹ 1,25,000	(i.e. ₹1,41,875 x 100/113.5)
Manufacturing expenses	₹ 75,000	
Total cost	₹ 2,00,000	
Profit @80% on cost	₹ 1,60,000	(i.e. ₹2,00,000 x 80/100)
Assessable Value	₹ 3,60,000	
Add: Excise Duty	₹ 45,000	(i.e. ₹3,60,000 x 12.5/100)
Taxable Turnover	₹ 4,05,000	
Add: VAT	₹ 54,675	(i.e. ₹4,05,000 x 13.50%/100)
Aggregate Sales	₹ 4,59,675	
Value Added Tax payable	₹ 54,675	
Less: Input Tax Credit	₹ 16,875	
Net Value Tax Payable	₹ **37,800**	

Example 14 under 'Practical Problems on VAT' in Page No. 8.27 — Modified

Example 14: Compute net VAT liability of Mr. Ram from the following information:

Particulars	(₹)	(₹)
Raw material from the foreign market (Including duty paid on imports @20%)		1,20,000
Raw material purchased from local market		
Cost of material	2,50,000	
Add: Excise duty 12.5%	31,250	
	2,81,250	
Add: VAT @4%	11,250	2,92,500
Raw material purchase from neighboring State (includes CST @2%)		51,000
Storage and transportation cost		9,000
Manufacturing expenses		30,000

Mr. Ram sold goods to Mohan and earned profit @12% on cost of production.

VAT rate on sale of such goods is 5%.

Answer:

Statement showing net VAT liability of Mr. Ram

Raw material from the foreign market	=	₹ 1,20,000
Raw material from local market	=	₹ 2,81,250
Raw material from neighboring State	=	₹ 51,000
Storage and transport cost	=	₹ 9,000
Manufacturing expenses	=	₹ 30,000
Cost of production	=	₹ 4,91,250
Add: profit @12% on cost of production	=	₹ 58,950
Taxable turnover	=	₹ 5,50,200
Add: VAT @ 5% on taxable turnover	=	₹ 27,510
Sale value	=	₹ 5,77,710
VAT payable on sales	=	₹ 27,510
Less: ITC on purchases	=	₹ 11,250
Net VAT liability	=	₹ 16,260

Study Note - 9

Point 9.32 [Forms under CST] in Page No. 9.27 — Modified

Form A	This form is prescribed for application to get registered u/s 7 of CST Act. Details such as name, status, place of business, warehouses, nature of business, nature and purpose of goods to be dealt, goods to be bought from outside the state etc., are required to be furnished.
Form B	Certificate of registration shall be issued by the authority in this form. The certificate of registration should be kept in the principal place of business an copies thereof in the branches inside the appropriate state
Form C	Registered dealers are entitled to certain exemptions under CST Act, 1956 Form C is used by a purchasing dealer to get the goods at confessional rate of duty and is issued in favour of the dealer who effects interstate sale. It is obtained from the sales tax authorities in the state in which the purchasing dealer is registered. It contains particulars such as name of purchasing dealer, sales tax registration no., its validity, details of goods obtained (whether for resale, manufacture, processing or as packing material), name and address of the seller etc.
Form D	Abolished w.e.f. 1.4.2007
Form EI & E II	In case of subsequent sale in the course of Interstate sale, the dealer effecting subsequent sale can avail exemption by submitting Form C issued by his customer and by submitting Form E-1, issued by his seller. Form, E-I & E-II etc. are printed by the Sales Tax department and are supplied to the registered dealer for their use. Form E-II will have to be issued, in case there are more than one subsequent sale. Thus, it should be noted that Form E-I can be issued by the first seller alone. Form E-II & E-III will have to be submitted by those selling dealer (other than the first dealer) to their purchaser, who can avail of the exemption under section 6(2), subject to the condition that Form C is submitted as well.
Form F	Form by branch/consignment agent for goods received on stock transfer
Form G	Indemnity bond when C form lost
Form H	Certificate of Export
Form I	Certificate by SEZ unit

Example 9 under 'Practical Problems on CST' in Page No. 9.28 — Modified

EXAMPLE 9: MR. RAM FURNISHES THE FOLLOWING INFORMATION PERTAINING TO INTER-STATE SALES EFFECTED BY HIM:

	Products		
	L	M	N
Local VAT rates	13.5%	5%	1%
Total sales value	7,84,000	5,40,000	4,12,000

Additional information (i) In respect of product L sold in May, 2015, goods of total sales value of ₹ 67,200 were returned in July, 2015 and ₹ 44,800 in December, 2015: ₹ 56,000 were rejected and returned in January, 2016.

(ii) Buyer of product N did not produce C forms.

(iii) Buyer of product M for total sale value ₹ 43,200 did not furnish C form as the product was not covered in his registration certificate.

Compute the taxable turnover and the sales tax liability of the three products L, M and N, for the financial year 2015-16.

Answer:

Product-L		(₹)
Total Sales		7,84,000
(Less)	Sales return within 6 months	(67,200)
(Less)	Rejection	(56,000)
		6,60,800

₹ 6,60,800

Sales

₹ 6,16,000

'C' Form Given

CST = 2% (or) 13.5% whichever is lower

Therefore,

CST = ₹ 6,16,000 x 100/113.5 x 2 /100

= ₹ 10,855

Sales Return

beyond 6 months

₹ 44,800

Form 'C' not given

Hence CST = 13.5%

CST= 44,800 x 13.50/113.5

CST = ₹ 5,329

Product-M (₹)

Total Sales 5,40,000

'C' Form given

₹ 4,96,800

CST = 2% or local VAT rate 5% whichever is lower

CST = ₹ 4,96,800 x 100/105 x 2/100

CST = ₹ 9,463

'C' Form not given

₹ 43,200

inclusive of CST 5%

CST = ₹ 43,200 x 5/105

CST = ₹ 2,057

Product-N	(₹)
Total Sales	4,12,000

Buyer of product 'N' did not produce 'C' Forms

Therefore CST = Local VAT rate

Hence CST = 4,12,000 x 100 /101 x 1% = ₹ 4,079

Example 16 under 'Practical Problems on CST' in Page No. 9.35 — Modified

Example 16: Diamond Ltd., Mumbai sells goods for a value of ₹ 20,00,000 inclusive of central sales tax @ 2% to Goldie Ltd. in Cochin, both of them are registered dealers. The local sales tax on goods in Mumbai is 1%. Ascertain sales tax payable. If Goldie Ltd. were unable to submit Form-C, being an unregistered dealer, what will be the central sales tax liability, if the local sales tax rate is 13.50%?

ANSWER :

Central Sales Tax payable against Form 'C' sales = ₹ 19,608 [i.e. (₹ 20,00,000 x 100/102) x 1/100].

Central Sales Tax payable (if Form 'C' not received) = ₹2,64,706 [i.e. (₹20,00,000 x 100/102)× 13.50/100]

Example 17 under 'Practical Problems on CST' in Page No. 9.35 — Modified

EXAMPLE 17: MR. VISHAL IS A DEALER. HIS SALES DURING THE FIRST QUARTER OF 2014-15 (APRIL TO JUNE) ARE AS UNDER:

	Date	**Invoice No.**	**Amount (₹)**
(i)	05-4-2015	103/FCA/01/2015	10,000 plus tax @2%
(ii)	12-4-2015	103/FCA/02/2015	80,000 plus tax @2%
(iii)	05-5-2015	103/FCA/03/2015	62,400 (inclusive of tax)
(iv)	06-6-2015	103/FCA/04/2015	14,000 plus C.S.T. @2%
(v)	27-6-2015	103/FCA/05/2015	18,000 plus C.S.T. @2%
(vi)	Goods worth ₹ 7,000 (exclusive of tax) against Invoice No.103/FCA/04/2014 were returned on 29-6-2015.		
(vii)	Goods worth ₹ 13,000 (inclusive of tax @2%) sold on 26-12-2014 were returned on 30-6-2015.		
(viii)	Goods worth ₹ 6,500 (inclusive of tax @2%) sold on 27-12-2014 were returned on 30-6-2015.		

All the above sales were made in the course of interstate trade against Form 'C'. Calculate the turnover and CST payable @2%. Value Added Tax in the state of seller 5%.

Answer :

Statement showing taxable turnover and central sales tax payable for the first quarter from April 2015 to June 2015:

Date	Invoice No.	Taxable Turnover (₹)	Central Sales Tax payable (₹)	Total Turnover (₹)	Workings (₹)
05-4-2015	103/FCA/01/2015	10,000	200	10,200	10,000 x 2% = 200
12-4-2015	103/FCA/02/2015	80,000	1,600	81,600	
05-5-2015	103/FCA/03/2015	61,176	1,224	62,400	62,400 x 2/102 = ₹ 1,224
06-6-2015	103/FCA/04/2015	14,000	280	14,280	14,000 x 2% = 280
27-6-2015	103/FCA/05/2015	18,000	360	18,360	18,000 x 2% = 360
Sub-total		1,83,176	3,664	1,86,840	
Less: sales returns within six months from the date of sales		7,000	140	7,140	7,000 x 2% = 140
Net amount		**1,76,176**	**3,524**	**1,79,700**	

Sales returns beyond six months from the date of sale considered as sales made to unregistered dealer (since, buyer can not issue Form 'C' for returns):

Sales returns beyond six months from the date of sales attract CST @5%. (i.e. 2% or Local VAT rate 5% whichever is higher):

Taxable turnover = ₹ 19,118 [(i.e. ₹ 13,000 + ₹ 6,500) x 100/102]

CST payable = ₹ 956 (i.e. ₹ 19,118 x 5/100)

Summary:

CST payable against Form 'C' sales	= ₹ 3,524	
Add: CST payable (Form 'C' not received)	= ₹ 956	
	= ₹ 4,480	
Less: CST already paid on sales returns beyond six months	= ₹ 382	(i.e. ₹ 19,118 x 2%)
Net CST liability for the 1st quarter (April – June)	= ₹ 4,098	

Study Note - 10

Step 6 of Point 10.5 [Steps in the process of computing Arm's length price – Transfer Pricing (TP) Study] in Page No. 10.5 — Modified

Power of Board to make Safe Harbour Rules [Section 92CB of Income-tax Act]

The determination of arm's length price under section 92C or section 92CA shall be subject to safe harbor rules.

Further as per section 92CB(2), the Board may, for the purposes of section 92CB(1), make rules for safe harbor.

Explanation.- For the purposes of this section, "safe harbour" means circumstances in which the income-tax authorities shall accept the transfer price declared by the assessee.

Safe hourbour rules for international transactions have since been notified by the CBDT by Notification No. 73/2013, dated 18-9-2013 which contain rules 10TA to 10TG.

Paper - 12

COMPANY ACCOUNTS & Audit

Section – A

Study Note 2

ACCOUNTING STANDARD

AS 29: PROVISIONS, CONTINGENT LIABILITIES AND CONTINGENT ASSETS

This standard is not applicable to:

- Financial instruments carried at fair value
- Insurance enterprises
- Contract under which neither party has performed any of its obligations or both parties have partially performed their obligation to an equal extent
- AS 7, AS 9, AS 15, AS 19, AS 22 and AS 24.

Disclosure: For each class of provision, an enterprise should disclose:

(a) the carrying amount at the beginning and end of the period;

(b) additional provisions made in the period, including increases to existing provisions;

(c) amounts used (i.e. incurred and charged against the provision) during the period;

(d) unused amounts reversed during the period.

SMCS are exempt from the disclosure requirements of AS 29.

Section – B

Study Note - 3 ACCOUNTING FOR SHARES AND DEBENTURES

Issue and Redemption of Preference Shares [Section 55 of Companies Act, 2013]

(1) No company limited by shares shall, after the commencement of this Act, issue any preference shares which are irredeemable.

(2) A company limited by shares may, if so authorised by its articles, issue preference shares which are liable to be redeemed within a period not exceeding twenty years from the date of their issue subject to such conditions as may be prescribed. Provided that a company may issue preference shares for a period exceeding twenty years for infrastructure projects, subject to the redemption of such percentage of shares as may be prescribed on an annual basis at the option of such preferential shareholders.

Provided further that –

(a) Out of the profits of the company or out of the proceeds of a fresh issue of shares made for the purposes of such redemption;

(b) Redeemed of fully paid share only;

(c) If redeemed out of the profits of the company, then a sum equal to the nominal amount of the shares to be redeemed, transfer to the Capital Redemption Reserve Account; and

(d) (i) in case of class of companies on which provision of section 133 is apply, the premium, if any, payable on redemption shall be provided for out of the profits of the company, before the shares are redeemed. If premium is payable on redemption of any preference shares issued on or before the commencement of this Act by any such company shall be provided for out of the profits of the company or out of the company's securities premium account, before such shares are redeemed.

(ii) in a case not falling under sub-clause (i) above, if the premium is payable on redemption shall be provided for out of the profits of the company or out of the company's securities premium account, before such shares are redeemed.

(3) Where a company is not in a position to redeem any preference shares or to pay dividend, if any, on such shares in accordance with the terms of issue (such shares hereinafter referred to as unredeemed preference shares), it may, with the consent of the holders of three-fourths in value of such preference shares and with the approval of the Tribunal on a petition made by it in this behalf, issue further redeemable preference shares equal to the amount due, including the dividend thereon, in respect of the unredeemed preference shares, and on the issue of such further redeemable preference shares, the unredeemed preference shares shall be deemed to have been redeemed. Provided that the Tribunal shall, while giving approval under this sub-section, order the redemption forthwith of preference shares held by such persons who have not consented to the issue of further redeemable preference shares.

(4) The capital redemption reserve account may be applied by the company for issue of fully paid bonus shares to be issued to members of the company.

Lock-in of sweat equity shares (Regulation 12)

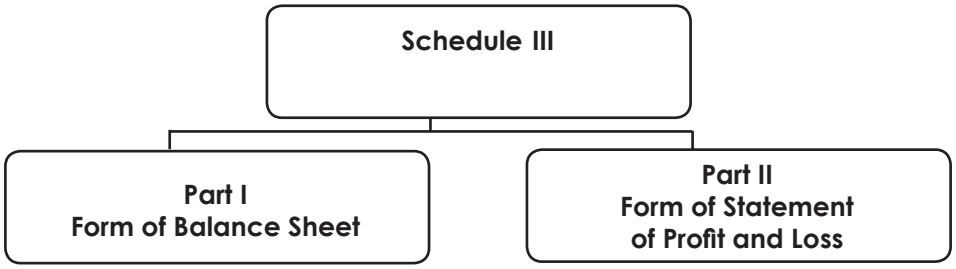
The Sweat Equity shares shall be locked in for a period of three years from the date of allotment. The Securities and Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2000, on public issue in terms of lock-in and computation of promoters' contribution shall apply if a company makes a public issue after it has issued sweat equity.

Study Note - 4

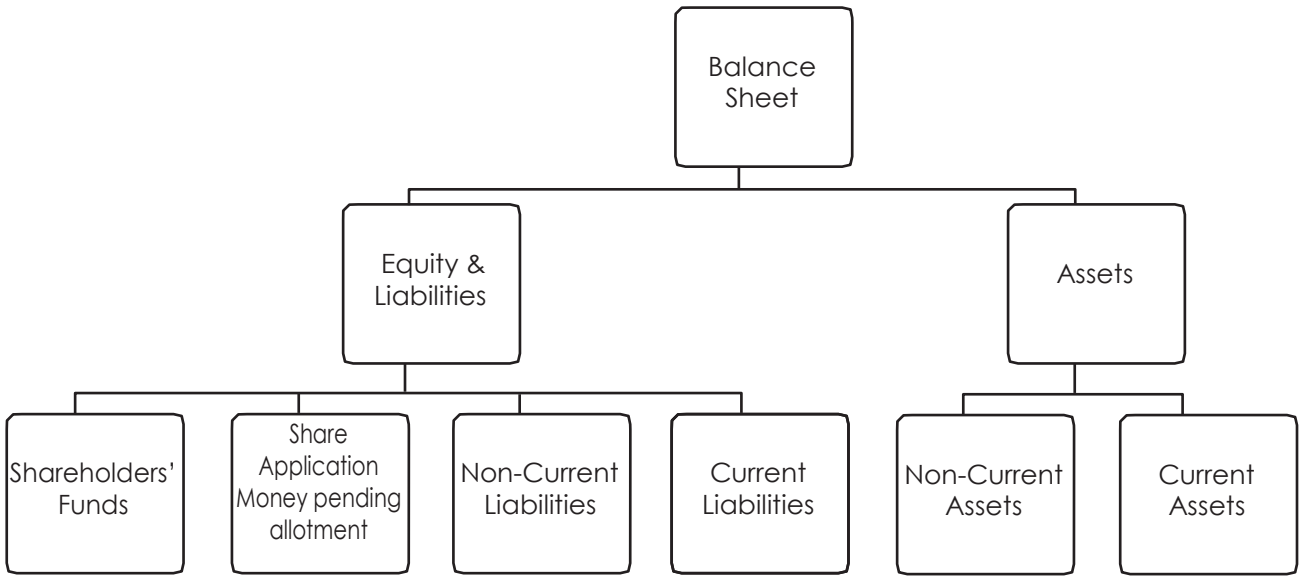
PRESENTATION OF FINANCIAL STATEMENTS (SCHEDULE III)

Applicability: As per Section 129 of the Company Act, 2013, the Schedule III is applicable from 01.04.2014.

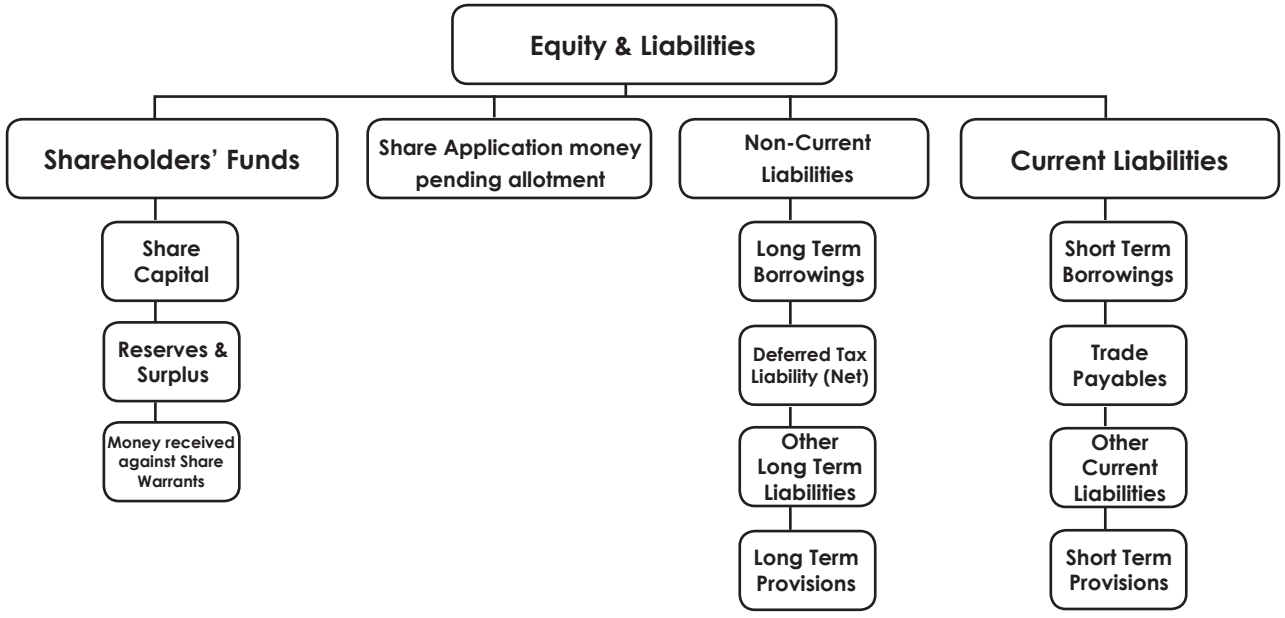
Date of enforcement of Schedule III:



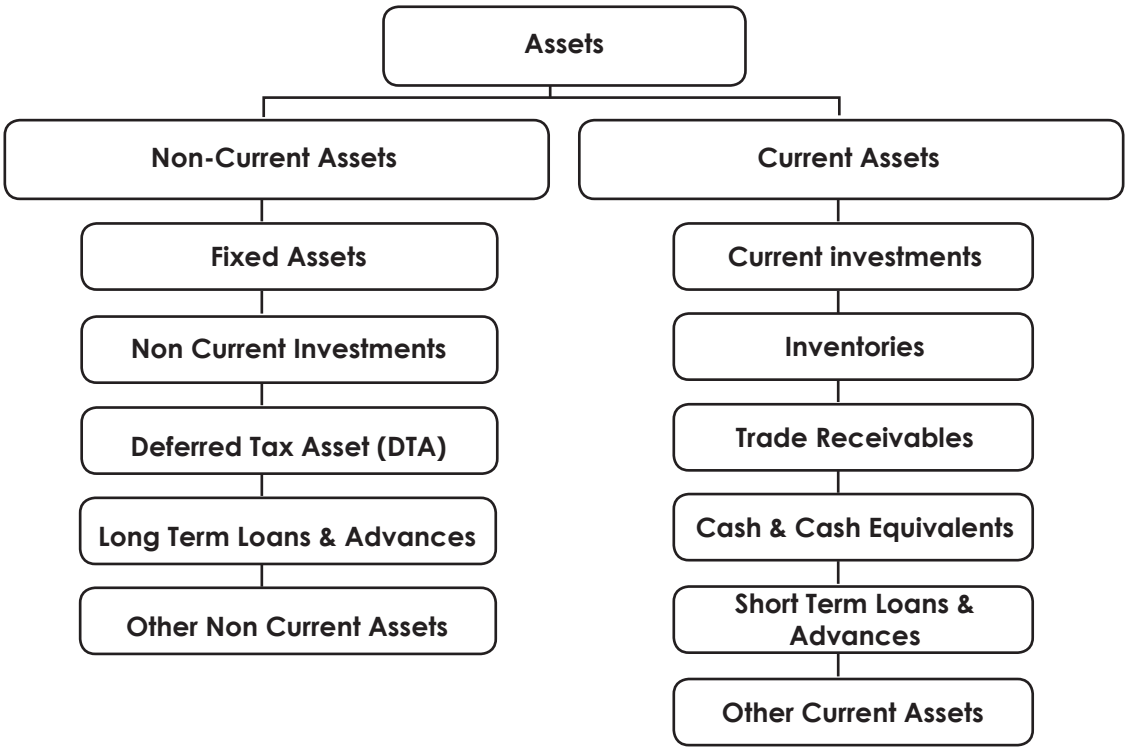
PART I – FORM OF BALANCE SHEET



Break-up of Equity & Liabilities



Break-up of Assets



PART I – FORM OF BALANCE SHEET

Name of the Company:……

Balance Sheet as at: …… (₹ in……)

	Particulars	**Note**	**Figure as at the end of Current Reporting Period**	**Figures as at the end of the Previous Reporting Period**
			₹	₹
I.	EQUITY AND LIABILITIES			
(1)	Shareholders' Funds			
	(a) Share Capital			
	(b) Reserves & Surplus			
	(c) Money Received against Share Warrants			
(2)	Share Application money pending allotment			
(3)	Non-Current Liabilities			
	(a) Long Term Borrowings			
	(b) DTL (Net)			
	(c) Other Long Term Liabilities			
	(d) Long Term Provisions			
(4)	Current Liabilities			
	(a) Short Term Borrowings			
	(b) Trade Payables			
	(c) Other Current Liabilities			
	(d) Short Term Provisions			
	Total			
II.	ASSETS			
(1)	Non-Current Assets			
	(a) Fixed Assets			
	(i) Tangible Assets			
	(ii) Intangible Assets			
	(iii) Capital WIP			
	(iv) Intangible Assets under Development			
	(b) Non-Current Investments			
	(c) DTA (Net)			
	(d) Long Term Loans & Advances			
	(e) Other Non-Current Assets			
(2)	Current Assets			
	(a) Current Investments			
	(b) Inventories			
	(c) Trade Receivables			
	(d) Cash & Cash Equivalents			
	(e) Short Term Loans & Advances			
	(f) Other Current Assets			
	Total			

For the purpose of this Schedule, the terms used herein shall be as per the applicable Accounting Standards	
Notes to Balance Sheet	A Company shall disclose the following in the Notes to Accounts- Details provided

Disclosure Requirement: Schedules Forming Part of Financial Statements/Annual Report

(A) FOR "EQUITY AND LIABILITIES" ITEMS

(1) SHAREHOLDERS' FUNDS

(a) SHARE CAPITAL

Sch. III Disclosure Requirement	Points to be considered
General	• Sch III deals only with presentation and disclosure requirements • Accounting classification into Debt and Equity components is governed by the applicable Accounting Standard • Preference Shares will have to be classified as "Share Capital" and also includes such Preference Shares of which redemption is overdue
For each Class of Share Capital (different classes of Preference Shares to be treated separately):	
(a) Authorized Capital	It is the maximum number and face/par value, of each class of shares that a corporate entity may issue in accordance with its instrument of incorporation.
(b) Number of Shares Issued, Subscribed and Fully Paid, and Subscribed but not Fully Paid	• Subscribed Share Capital" is "that portion of the Issued Share Capital which has actually been subscribed by the public and subsequently allotted to the shareholders by the entity. This also includes any Bonus shares issued to the Shareholders • "Paid-up Share Capital" is "that part of the Subscribed Share Capital for which consideration is cash or otherwise has been received. This also includes Bonus Shares allotted and shares issued otherwise than for cash against purchase consideration, by the corporate entity." • If Shares are not fully called, then disclose the called up value per share
(c) Face/Par Value per Share	• Face/Par Value, as per Capital Clause in Memorandum of Association should be disclosed
(d) Reconciliation of No. of Shares	• For the Amount of Share Capital; • For comparative previous period; • Separate statements for both Equity and Preference Shares, which should again be sub-classified and represented for each class of Shares
(e) Rights, Preferences and Restrictions attaching to shares including restrictions on the distribution of Dividends and the Repayment of Capital	• For Equity Share Capital, such rights / preferences / restrictions may be with voting rights, or with differential voting rights as to dividend, voting or otherwise as per Companies (Issue of Share Capital with Differential Voting Rights) Rules, 2001. • For Preference Shares, the rights include dividend and / or capital related rights. Further, Preference Shares can be cumulative, non-cumulative, redeemable, convertible, non-convertible, etc. • All such Rights, Preferences and Restrictions attached to each class of Shares, terms of redemption, etc. should be disclosed separately.
(f) Shares held in the Company held by its Holding Company or its ultimate Holding Company including Shares held by or by Subsidiaries or Associates of the Holding Company or the ultimate Holding Company in aggregate	• Disclose number of Shares held by the entire chain of Subsidiaries and Associates starting from the Holding Company and ending right up to the Ultimate Holding Company • All such disclosures should be made separately representing for each class of Shares, (for both Equity and Preference Shares)

(g)	List of Shareholders holding more than 5% shares as on the Balance Sheet Date	• Date for computing the 5% limit should be taken as the Balance Sheet date. So, if during the year, any Shareholder held more than 5% Equity Shares but does not hold as much at the Balance Sheet date, disclosure is not required. • Companies should disclose the Shareholding for each class of Shares, both within Equity and Preference Shares. So, such % should be computed separately for each class of Shares. • This information should also be given for comparative previous period.
(h)	Shares Reserved for issue under Options and Contracts/ commitments for the sale of Shares/ Disinvestment, including the Terms and Amounts	• Shares under Options generally arise under Promoters or Collaboration Agreements, Loan Agreements or Debenture Deeds (including Convertible Debentures), agreement to convert Preference Shares into Equity Shares, ESOPs or Contracts for supply of Capital Goods, etc. • Disclosure is required for the Number of Shares, Amounts and Other Terms for Shares so reserved. Such options are in respect of Unissued Portion of Share Capital
(i)	For the period of 5 years immediately preceding the date as at which the Balance Sheet is prepared- • Aggregate Number & Class of Shares allotted as Fully Paid and Up Pursuant to Contract(s) without payment being received in Cash • Aggregate No. and Class of Shares allotted as fully Paid up by way of Bonus Shares • Aggregate Number & Class of Shares bought back	Disclose only if such event has occurred during a period of 5 years immediately preceding the Current Year Balance Sheet date • The aggregate number of shares allotted or bought back • If the company is in operation for a period of less than 5 years, then disclosure should cover all such earlier financial years Not to disclose the following allotments: • The following allotments are considered as Shares allotted for payment being received in cash, and hence should not be disclosed under this Clause – (a) If the subscription amount is adjusted against a bonafide debt payable in money at once by the Company, (b) Conversion of Loan into Shares in the event of default in repayment
(j)	Terms of any Securities Convertible into Equity / Preference Shares issued along with the earliest date of conversion in descending order starting from the farthest such date	• In case of Compulsorily Convertible Securities, where conversion is done in fixed tranches, all the dates of conversion have to be considered. • In case of Convertible Debentures/Bonds, etc. for the purpose of simplification, reference may also be made to the terms disclosed under the note on Long-Term Borrowings where these are required to be classified in the Balance Sheet, rather than disclosing the same against under this Clause.
(k)	Calls Unpaid (showing aggregate value of Calls Unpaid by Directors and Officers)	• Unpaid Amount towards Shares subscribed by the Subscribers of Memorandum of Association should be considered as 'Subscribed and paid-Up Capital' in the Balance Sheet and the Debts due from the Subscribers should be appropriately disclosed as an Asset in the B/Sheet.
(l)	Forfeited Shares (amount originally paid up)	----

(1) (b) RESERVES & SURPLUS

Sch. III Disclosure Requirement	Points
Reserves & Surplus shall be classified as – (a) Capital Reserves	• Capital Reserve is a Reserve of a Corporate Enterprise which is not available for distribution as Dividend. • Profit on Re-issue of Forfeited Shares is basically profit of a Capital Nature and, hence, it should be credited to Capital Reserve.
(b) Capital Redemption Reserve	Capital Redemption Reserve (CRR) is required to be created u/s 55 and 68 (for redemption of PSC and buyback of ESC), subject to conditions specified in the respective Sections.
(c) Securities Premium Reserve	Sch III uses the term "Securities Premium Reserve" but the Act uses the term "Securities Premium Account". Hence, the term used in the Act should be used.
(d) Debenture Redemption Reserve	Debenture redemption Reserve (DRR) is required to be created u/s 71, and maintained until such Debentures are redeemed. On redemption of the Debentures, the amounts no longer necessary to be retained in this Account should be transferred to the General Reserve.
(e) Revaluation Reserve	Revaluation Reserve is a Reserve created on the revaluation of Assets or Net Assets of an Enterprise represented by the surplus of the estimated Replacement Cost or estimated market values over the Book Values thereof.
(f) Share Options Outstanding Account	As per ICAI Guidance Note on ESOP, Share Options Outstanding should be shown as separate line item. Under Sch III, this line item should be shown separately under Reserves & Surplus.
(g) Other Reserves (specify the nature & purpose of each Reserve and the amount in respect thereof)	This includes any other Statutory Reserves, e.g. Tonnage Tax reserve to be created under the Income Tax Act, 1961.
(h) Surplus, i.e. balance in Statement of P&L disclosing allocations & appropriations such as Dividend, Bonus Shares and Transfer to/from Reserves etc. (Additions & Deductions since last Balance Sheet to be shown under each of specified heads)	• Appropriations to the Profit for the year (including carried forward balance) is to be presented under the main head 'Reserves and Surplus'. Under Sch III, the Statement of P&L will no longer reflect any appropriations, like Dividends transferred to Reserves, Bonus Shares, etc.

Notes:

1. **Fund:** A Reserve specifically represented by Earmarked Investments shall be termed as a 'Fund'.
2. **Profit and Loss Account (Dr.):** Debit balance Statement of P&L shall be shown as a Negative Figure under the head 'Surplus'. Similar, the balance of 'Reserves & Surplus', after adjusting Negative balance of Surplus, if any, shall be shown under the head 'Reserves & Surplus' even if the resulting figure is in the negative.

(1) (c) MONEY RECEIVED AGAINST SHARE WARRANTS

Sch. III Disclosure Requirement	Points
To be shown as a separate line item on the face of Balance Sheet	• In case of Listed Companies, Share warrants are issued to Promoters & others in terms of the Guidelines for Preferential Issues viz. SEBI (Issue of Capital and Disclosure Requirements), Guidelines, 2009. • Effectively, Share Warrants are amounts which would ultimately form part of the Shareholder's Funds. Since Shares are yet to be allotted against the same, these are not reflected as part of Share Capital, but as a separate line – item.

(2) SHARE APPLICATION MONEY PENDING ALLOTMENT

Sch. III Disclosure Requirement	Points
To be shown as a separate line item on the face of Balance Sheet	• Share Application Money not exceeding the Issued Capital and to the extent not refundable, is to be disclosed as a separate line item after "Share Holders Funds" and before "Non-Current Liabilities". • If the Company's Issued Capital is more than the Authorized Capital, and approval of increase in Authorized Capital is pending, the amount of Share Application Money received over and above the Authorized Capital should be shown under the head "Other Current Liabilities". • The amount shown as 'Share Application Money Pending Allotment' will not include Share Application Money to the extent refundable. For example, the amount in excess of Issued Capital, or where Minimum Subscription requirement is not met. Such amount will have to be shown separately under 'Other Current Liabilities'. • Calls Paid in Advance are to be shown under "Other Current Liabilities". The amount of interest which may accrue on such advance should also is to be reflected as a Liability.

(3) NON-CURRENT LIABILITIES

(3) (a) LONG TERM BORROWINGS

Sch. III Disclosure Requirement	Points
Long-Term Borrowings shall be classified as – (a) Bonds/Debentures,	-----
(b) Terms Loans – (i) from Banks, and (ii) from Other Parties,	Loans with repayment period beyond 36 months are usually known as "Term Loans". So, Cash Credit, Overdraft and Call Money Accounts/ Deposits are not covered by the expression "Term Loans".
(c) Deferred Payment Liabilities,	Deferred Payment Liabilities would include any Liability for which payment is to be made on deferred credit terms, e.g. Deferred Sales Tax Liability, Deferred Payment for Acquisition of fixed Assets, etc.

(d) Deposits,	Deposits classified under Borrowings would include Deposits accepted from Public and Inter – Corporate Deposits which are in the nature of Borrowings.
(e) Loans & Advances from Related Parties,	Loans and advances from related parties are required to be disclosed. Advances under this head should include those advances which are in the nature of loans.
(f) Long-Term Maturities of Finance Lease Obligations,	
(g) Other Loans & Advances (specify nature)	
Notes: **1. Security-wise Classification:** Borrowings shall further be sub-classified as Secured and Unsecured. Nature of Security shall be specified separately in each case.	• Nature of Security shall be specified separately in each case. A blanket disclosure of different securities covering all Loans classified under the same head such as "All Term Loans from Banks" will not suffice. • However, where one security is given for multiple Loans, the same may be clubbed together for disclosure purposes with adequate details of cross referencing. • Disclosure about the nature of security should also cover the type of asset given as security e.g. Inventories, Plant and Machinery, land and Building, etc. • When Promoters, other Shareholders or any third party have given any personal security for any borrowing, e.g. Shares or Other Assets held by them, disclosure should be made thereof, though such security does not result in the classification of such borrowing as secured.
2. Guarantees: where Loans have been guaranteed by Directors or Others, the aggregate amount of such Loans under each head shall be disclosed.	The word **"Others"** used in the phrase "Directors or Others" would mean any Person or Entity other than a Director, e.g. Related Parties, or any person associated with the Company in some manner.
3. Maturity Date-wise: Bonds / Debentures (along with Rate of Interest & particulars of Redemption or Conversion, as the case may be) shall be stated in descending order of maturity or conversion, starting from farthest Redemption or Conversion Date, as the case may be.	• **Current** Maturities of all Long-Term Borrowings will be disclosed under "Other Current Liabilities" and not under Long-Term Borrowings and Short-Term Borrowings. • So, it is possible that the same Bonds/Debentures/ Term Loans may be bifurcated under both "Long-Term Borrowings" as well as under "Other Current Liabilities".

4.	**Installment Redemption:** Where Bonds/Debentures are redeemable by Installments, the Date of Maturity for this purpose must be reckoned as the Date on which the First Installment becomes due.	------
5.	**Re-issue Powers:** Particulars of any redeemed Bonds/ Debentures which the Company has power to reissue shall be disclosed.	------
6.	**Terms of Repayment:** Repayment of Term Loans and Other Loans shall be stated.	Other Loans should be interpreted to mean all categories listed under the heading 'Long-Term Borrowings' as per Sch VI (R). Disclosure of terms of repayment should be made preferably for each Loan unless the repayment terms of individual loans within a category are similar, in which case, they may be aggregated.
7.	**Default:** Period and amount of continuing default as on the Balance Sheet date in repayment of Loans and Interest, shall be specified separately in each case.	The term "Continuing Default" is used w.r.t. Long Term Borrowings, whereas the term "Default" is used w.r.t. Short Term Borrowings. • Under CARO, the Auditor shall report on the default made and the period of default. • As per Sch VI (R), the period and amount of continuing default as on the Balance Sheet date in repayment or Term Loans and Interest shall be specified separately in each case. • Disclosures relating to default should be made for all items listed under the category of Borrowings such as Bonds/ Debentures, Deposits, Deferred Payment Liabilities, Finance Lease Obligations, etc. and not only to items classified as "Loans" such as Term Loans, Loans & Advances etc. • Defaults other than in respect of repayment of Loan and Interest, e.g. non-compliance with Debt Covenants, etc. need not be disclosed. • Any default that had occurred during the year and was **subsequently made good** before the end of the year need not be disclosed.

(3) (b) DEFERRED TAX LIABILITIES **(Also Refer AS-22)**

Sch. III Disclosure Requirement	Points
To be shown as a separate line item on the face of Balance Sheet.	----

(3) (C) OTHER LONG TERM LIABILITIES

Sch. III Disclosure Requirement	Points
It shall be classified as – (a) Trade Payables	Sundry Creditors for Goods or Services, and Acceptances should be disclosed as part of Trade Payables. Disclosure Requirements under MSMED Act will also be required to be made in the annual Financial Statements
(b) Others	Amounts due under contractual obligations, e.g. payables in respect of statutory obligations like contribution to Provident Fund Purchase of Fixed Assets, Contractually Reimbursable Expenses, Interest Accrued on Trade Payables, etc. should be classified as "Others" and each such item should be disclosed nature-wise.

(3) (d) LONG TERM PROVISIONS

Sch. III Disclosure Requirement	Points
It shall be classified as – (a) Provision for Employee Benefits	This should be classified into short-term and long-term portions, and the latter amount should be included here.
(b) Others (Specifying nature)	This would include items like Provisions for Warranties, etc.

(4) CURRENT LIABILITIES

(4) (a) SHORT TERM BORROWINGS

Sch. III Disclosure Requirement	Points
1. Short-Term Borrowings shall be classified as – • Loans Repayable on demand– (i) from Banks, & (ii) Other Parties, • Loans and Advances from Related Parties, • Deposits, • Others Loans and Advances (specify nature) **2. Security-wise Classification:** Borrowings shall further be sub-classified as Secured and Unsecured. Nature of security shall be specified separately in each case. **3. Guarantees:** Where Loans have been guaranteed by Directors or others, the aggregate amount of such Loans under each head shall be disclosed. **4. Default:** Period & amount of default as on B/Sheet Date in repayment of Loans and Interest shall be separately in each case.	• Short-Term Borrowings will include all Loans within a period of 12 months from the date of the loan, Loans payable on demand, etc. but will not include Current Maturity of Long-Term Borrowings (Which should be treated only as "Other Current Liabilities"). • In case of Short-Term Borrowings, all defaults (not continuing defaults as in the case of Long Term Borrowings) existing as at the date of the Balance Sheet should be disclosed (item-wise) • A 3-Year Loan taken for a business with an 4-year Operating Cycle will be categorized only as Short Term Borrowings, and not as Long Term Borrowings.

(4) (b) TRADE PAYABLES

As per Notification – G.S.R 679(E) (by Ministry of Corporate Affairs dated 4th September, 2015):

In exercise of the powers conferred by sub-section (1) of section 467 of the Companies Act,2013 (18 of 2013), the Central Government hereby makes the following further alterations in Schedule III and the details relating to Micro, Small and Medium Enterprises shall be disclosed in the notes.

Sch. III Disclosure Requirement	Points
It shall be classified as – (A) Total outstanding dues of micro enterprises and small enterprises; and (B) Total outstanding dues of creditors other than micro enterprises and small enterprises."	• Refer to meaning of 'Trade Payable' given earlier. • **Liability for Capital Goods Purchases:** Amount due towards purchase disclosed under "Other Current Liabilities" with a suitable description. • **Liability under Contractual Obligations:** Liability towards Employees, Leases or other Contractual Liabilities should **not** be included under Trade Payables. Only "Commercial Dues" can be included under Trade Payables.

Note:

The following details relating to Micro, Small and Medium Enterprises shall be disclosed in the notes:

(a) The principal amount and the interest due thereon (to be shown separately) remaining unpaid to any supplier at the end of each accounting year;

(b) The amount of interest paid by the buyer in terms of section 16 of the Micro, Small and Medium Enterprises Development Act, 2006, along with the amount of the payment made to the supplier beyond the appointed day during each accounting year;

(c) The amount of interest due and payable for the period of delay in making payment (which have been paid but beyond the appointed day during the year) but without adding the interest specified under the Micro, Small and Medium Enterprises Development Act, 2006;

(d) The amount of interest accrued and remaining unpaid at the end of each accounting year; and

(e) The amount of further interest remaining due and payable even in the succeeding years, until such date when the interest dues above are actually paid to the small enterprise, for the purpose of disallowance of a deductible expenditure under section 23 of the Micro, Small and Medium Enterprises Development Act, 2006.

(f) Explanation – the terms 'appointed day', 'buyer', 'enterprise', 'micro enterprise', 'small enterprise' and 'supplier' shall have the same meaning assigned to those under (b),(d),(e),(h),(m) and (n) respectively of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006.

(4) (c) OTHER CURRENT LIABILITIES

Sch. III Disclosure Requirement	Points
It shall be classified as – (a) Current maturities of Long –Term Debt, (b) Current Maturities of Finance Lease Obligations, (c) Interest Accrued but not due on Borrowings, (d) Interest Accrued and due on Borrowings, (e) Income Received in Advance, (f) Unpaid Dividends, (g) Application Money received for allotment of Securities and due for Refund and Interest Accrued thereon (Refer Note below) (h) Unpaid Matured Deposits and Interest Accrued thereon, (i) Unpaid Matured Debentures and Interest Accrued thereon, (j) Other Payables (specify nature). **Note:** 1. Share Application Money includes Advances towards allotment of Share Capital. 2. Terms and Conditions including the Number of Shares proposed to be issued, the Amount of Premium, if any, and the period before which shares shall be allotted shall be disclosed. 3. It shall also be disclosed whether the Company has sufficient Authorized Capital to cover the Share Capital Amount resulting from Allotment of Shares out of such Share Application Money. 4. Further, the period for which the Share Application Money has been pending beyond the period for Allotment as mentioned in the document inviting application for shares along with the reason for such Share Application Money being pending shall be disclosed. 5. Share Application Money not exceeding the Issued Capital and to the extent not refundable shall be shown under the head 'Equity' and Share Application Money to the extent refundable, i.e. the amount in excess of subscription or in case the requirements of minimum subscription are not met, shall be separately shown under '**Other Current Liabilities'.**	• The portion of Long Term Debts/ Lease Obligations, which is due for payments within 12 months of the reporting date is required to be classified under "Other Current Liabilities", while the balance amount should be classified under Long-Term Borrowings. • Trade Deposits and Security Deposits which are not in the nature of Borrowings should be classified separately under Other Non-Current / Current Liabilities. • **Other Payables** under this head may be in the nature of statutory dues such as Withholding Taxes, Service Tax, VAT, Excise Duty, etc. • **Current Year Classification as Current Liability and Previous Year Non-Current Liability:** Current/Non/Current Classification of Assets / Liabilities is determined a particular date, i.e. Balance Sheet date. So, if there is any change in the position at the end of the current year resulting in a different classification of Assets / Liabilities in the current year, it will **not** impact the classification made in the previous year.

(4) (d) SHORT TERM PROVISIONS

Schedule III Disclosure Requirement	Points
It shall be classified as – (a) Provision for Employee Benefits	This should be classified into short-term and long-term portions, and the former amount should be included here.
(b) Others (Specifying nature)	This includes Provision for Dividend, Provision for Taxation, Provision for Warranties, etc.

4 C. DISCLOSURE REQUIREMENTS FOR "ASSETS" ITEMS

(1) NON-CURRENT ASSETS

(1) (a) (i) TANGIBLE ASSETS **(Also Refer AS – 6, 10)**

Schedule III Disclosure Requirement	Points
1. Classification shall be given as –(a) Land, (b) Buildings, (c) Plant and Equipment, (d) Furniture & Fixtures, (e) Vehicles, (f) Office Equipment, (g) Others (Specify Nature).	AS-19 excludes Land Leases from its scope. **Leasehold Land** should be presented as a separate assets class under **Tangible Assets**. Also, Freehold Land should be presented as a separate asset class.
2. Assets under **Lease** shall be separately specified under each class of Asset.	• The term "under lease" should mean – (a) Assets given on Operating Lease in the case of Lessor, and (b) Assets held under Finance Lease in the case of Lessee. • Leasehold Improvements should continue to be shown as a separate asset class.
3. Revaluation: Where sums have been written off on a Reduction of Capital or Revaluation of Assets of where sums have been added on Revaluation of Assets, every Balance Sheet subsequent to date of such write-off, of addition shall show the Reduced or Increased figures as applicable and shall be way of a Note also show the amount of the Reduction or Increase as applicable together with the date thereof for the first 5 years subsequent to the dare of such Reduction or Increase.	• AS-10 requires disclosure of details such as Gross Book Value of Revalued Assets, Method adopted to compute revalued amounts, Nature of indices used, Year of appraisal, Involvement of External Valuer, etc. **as long as the concerned assets are held** by the Enterprise. [but only 5 years period is specified in Sch III] • AS-10 requirements will prevail. [**Note:**AS-26 does not permit revaluation of Intangible Assets.]

4. Reconciliation: A Reconciliation of the Gross and Net Carrying Amounts of each Class of Assets at the Beginning and End of the Reporting period showing Additions, Disposals, Acquisitions through Business Combinations and other Adjustments and the related Depreciation and Impairment Losses / Reversals shall be disclosed separately.	(a) Since reconciliation of Gross and Net Carrying Amounts of Fixed assets is required, the Depreciation / Amounts of fixed assets is required, the Depreciation / Amortization for each class of asset should be disclosed in terms of – • Opening Accumulated Depreciation, • Depreciation/Amortization for the year, • Deductions/Other Adjustments, and • Closing Accumulated Depreciation/ Amortization (b) Similar disclosures should also be made for Impairment, if any, as applicable. **(c) Business Combinations:** • Business Combination should be taken as an amalgamation or acquisition or any other mode of restructuring of a set of Assets and /or a group of Assets and Liabilities constituting a business. • Acquisitions through 'Business Combinations' should be disclosed separately for each class of assets. • Asset Disposals through Demergers, etc. any also be disclosed separately for each class of assets. **(d) Other Adjustments:** This includes – • Capitalization of FOREX Differences where such option has been exercised by the Company as per AS-11. • Adjustments on a/c of Exchange Fluctuations for Fixed Assets in case of Non-Integral Operations (AS-11). • Borrowing Costs capitalized as per AS-16.

(1) (a)(ii) INTANGIBLE ASSETS **(Also Refer AS – 26)**

Schedule III Disclosure Requirement	Points
Classification shall be given as – (a) Goodwill, (b) Brands / Trademarks, (c) Computer Software, (d) Mastheads and Publishing Titles, (e) Mining Rights, (f) Copyrights, and Patents and Other Intellectual Property Rights, Services and Operating Rights, (g) Recipes, Formulae, Models, Designs and Prototypes, (h) Licenses and Franchise, (i) Others (specify nature).	• Classification of Intangible Assets has been introduced under Sch VI (R). • Intangible Assets under development should also be disclosed separately, if AS-26 criteria are met.

Note: Points 3 and 4 of Tangible Assets is also applicable for Intangible Assets.

(1) (a)(iii) CAPITAL WORK IN PROGRESS

Schedule III Disclosure Requirement	Points
To be shown as a separate line item on the face of Balance Sheet	**Capital Advances** should be included under Long-Term Loans and Advances and hence, cannot be included under Capital WIP.

(1) (a)(iv) INTANGIBLE ASSETS UNDER DEVELOPMENT

Schedule III Disclosure Requirement	Points
To be shown as a separate line item on the face of Balance Sheet	Intangible Assets under development should be disclosed under this head provided they can be recognized based on the criteria laid down in AS-26.

(1) (b) NON CURRENT INVESTMENTS (Also Refer AS – 13)

Schedule III Disclosure Requirement	Points
Non-Current Investments shall be classified as Trade Investments and Other Investments, and further classified as Investments in – (a) Property, (b) Equity Instruments, (c) Preference Shares (d) Government / Trust Securities, (e) Debentures or Bonds, (f) Mutual Funds, (g) Partnership Firms, and (h) Other Non-Current Investments (specify nature).	• If a Debenture is to be redeemed partly within 12 months and balance after 12 months, the amount to be redeemed within 12 months should be disclosed as current, and balance as Non-Current. • **"Trade Investment"** is normally understood as an Investment made by a Company in Shares or Debentures of another Company, to promote the trade or business of the first Company.
Notes: 1. Under each classification, details shall be given of Names of Bodies Corporate (indicating separately whether such bodies are – (i) Subsidiaries, (ii) Associates, (iii) Joint Ventures, or (iv) Controlled Special Purpose Entities) in whom Investments have been made and the nature and extent of the Investment so made in each such Body Corporate (showing separately Investments which are partly-paid).	**(a) Controlled SPEs:** • Sch III requires separate disclosure of Investments in "Controlled Special Purpose Entities" in addition to Subsidiaries, Joint Venture, Associates, etc. • Since the expression "Controlled SPEs" is not defined in the Act/Sch. III/AS, **no disclosures** would be additionally required to be made under this caption. If and when such terminology is explained/ introduced in the applicable AS, the disclosure requirement would become applicable. **(b) Other Points:** "Nature and Extent" of Investment in each Body Corporate should be interpreted to mean the Number and Face Value of Share. Also, it is advisable to clearly disclose whether Investments are fully paid or partly paid. (item-wise)

2. In regard to Investments in the capital of **Partnership Firms,** the Names of the Firms (with the names of all their Partners, Total Capital and the Shares of each Partner) shall be given.	**(a)** **LLP:** A LLP is a **Body Corporate,** and not a Partnership Firm as envisaged under the Partnership Act, 1932. Hence, disclosures pertaining to Investments, in Firms will **not** include LLPs. Investments in LLPs will be disclosed separately under "Other Investments". **(b)** **Change in Constitution:** In case of change in constitution of the Firm during the year, the names of the Other Partners should be disclosed based on the position existing as on the date of Company's B/s. **(c)** **Capital:** • The Total Capital of the Firm, to be disclosed, should be with reference to the Amount of Capital on the date of the Company's Balance Sheet. • If the Partnership Firm has separate accounts for Partner's Capital, Drawings or Current, Loans to or from Partners, etc. disclosure must be made with regard to the **Total of Capital Accounts** alone, since this is what constitutes the capital of the Partnership Firm. • Where, however, such Accounts have not been segregated, or where the Partnership Deed Provides that the Capital or each Partner is to be calculated by reference to the Net Amount at his credit after merging all the Accounts, the disclosure relating to the Partnership Capital must be made on the basis of the **total effect** of such accounts taken together. **(d)** **Share of each Partner:** Share of each Partner means share in the Profits of the Firm, rather than the share in the Capital. **(e)** **Different Reporting Dates:** If it is not practicable to draw up the Financial Statements of the Partnership upto such date and, are drawn upto different reporting dates, drawing analogy from AS-21 and AS-27, adjustments should be made for effects of significant transactions or other events that occur between those dates and the date of the Parent's Financial Statements. Also, the difference between reporting dates should not be more than 6 months. In such cases, the difference in reporting dates should be disclosed.

3. Investments carried at other than at Cost should be separately stated specifying the basis for valuation thereof	**Basis of Valuation:** Disclosure for basis of valuation of Non-Current Investments may be either of – (a) Cost, or (b) Cost less Provision for other than temporary diminution, or (c) Lower of Cost and Fair Value.
4. The following shall also be disclosed- (a) Aggregate amount of Quoted Investments and Market Value thereof, (b) Aggregate Amount of Unquoted Investments, (c) Aggregate Provision for Diminution in value of Investments.	it is recommended to disclose the amount of provision netted-off for each Long-Term Investment. However, the aggregate amount of provision made in respect of all Non-Current Investments should also be separately disclosed to comply with the specific disclosure requirement in Sch III.

(1) (c) DERERRED TAX ASSET (Also Refer AS – 22)

Schedule III Disclosure Requirement	Points
To be shown as a separate line item on the face of Balance Sheet.	-----

(1) (d) LONG TERM LOANS AND ADVANCES

Schedule III Disclosure Requirement	Points
1. General Classification: Long Term Loans and Advances shall be classified as – (a) Capital Advances, (b) Security Deposits, (c) Loans and Advances to Related Parties (giving details thereof), (d) Other Loans and Advances (specify nature)	Capital Advances: • It should be specifically included under Long-Term Loans and Advances and hence, cannot be included under Capital Work-In-Progress. • Capital Advances are advances given for procurement of Fixed Assets which are Non-Current Assets. They are not realized back in cash, nut over a period, get converted into Fixed Assets. Assets. Hence, they are always Long Term Advances, irrespective of when the Fixed Assets are expected to be recd. **Other Loans and Advances** should include all other items in the nature of advances recoverable in cash or kind, e.g. Prepaid Expenses, Advance Tax, CENVAT Credit Receivable, VAT Credit Receivable, Service Tax Credit Receivable, etc. which are not expected to be realized within the next 12 months or operating cycle whichever is longer, from the Balance Sheet date.
2. Security-wise Classification: The above shall be separately sub-classified as – (a) Secured, considered Good (b) Unsecured, considered Good (c) Doubtful.	---

3.	**Bad / Doubtful:** Allowance for Bad and Doubtful Loans and Advances shall be disclosed under the relevant heads separately.	---
4.	**Directors, etc.:** Loans and Advances due by Directors or Other Officers of the Company or any of them either severally or jointly with any other persons or amounts due by Firms or Private Companies respectively in which any Director is a Partner of a Director of a Member should be separately stated.	The term **"Details"** of Loans and Advances of Related Parties would mean disclosure requirements contained in AS-18.

(1) (e) OTHER NON CURRENT ASSETS

Schedule III Disclosure Requirement	Points
1. **Other Non-Current Assets** shall be classified as – (a) Long-term Trade Receivables (including Trade Receivables on Deferred Credit Terms) (b) Others (specify nature) 2. **Security-wise Classification:** Long-Term Receivables shall be separately sub-classified as – (a) Secured, considered Good (b) Unsecured, Considered Good (c) Doubtful. 3. **Bad / Doubtful:** Allowance for Bad and Doubtful Loans and Advances shall be disclosed under the relevant heads separately. 4. **Directors, etc.:** Debts due by Directors or Other Officers of the Company or any of them either severally or jointly with any other person or Debts due by Firms or Private Companies respectively in which any Director is a Partner or a Director or a Member should be separately stated.	• A Receivable shall be classified as 'Trade Receivable' if it is in respect of the amount due on account of good sold or services rendered in the normal course of business. • Dues in respect of Insurance Claims, Sale of Fixed Assets, Contractually Reimbursable Expenses, Interest Accrued on Trade Receivables, etc. should be classified as **"Others"** and each such item should be disclosed nature-wise.

(2) CURRENT ASSETS

(2) (a) CURRENT INVESTMENTS **(Also Refer AS – 13)**

Schedule III Disclosure Requirement	Points
Current Investments shall be classified as – (a) Investments in Equity Instruments, (b) Investment in Preference Shares, (c) Investments in Government or Trust Securities, (d) Investments in Debentures or Bonds, (e) Investments in Mutual Funds, (f) Investments in Partnership Firms, (g) Other Investments (specify nature). **Notes:** 1. Under each classification, details shall be given of Names of Bodies Corporate [indicating separately whether such Bodies are – (i) Subsidiaries, (ii) Associates, (iii) Joint Ventures, or (iv) Controlled Special Purpose Entities] in whom Investments have been made and the nature and extent of the Investment so made in each such Body Corporate (Showing Separately Investments which are party-paid). In regard to Investments in the Capital of Partnership Firms, the names of the Firms (with the names of all their Partners, Total Capital and the Shares of each Partner) shall be given. 2. The following shall also be disclosed: (a) Basis of Valuation of individual Investments, (b) Aggregate Amount of Quoted Investments and Market Value thereof, (c) Aggregate Amount of Unquoted Investments, (d) Aggregate Provision made for Diminution in Value of Investments.	Principles given for Non-current Investments will apply here, to the extent relevant. However, Trade vs Non-Trade Classification, is not required for Current Investments.

(2) (b) INVENTORIES **(Also Refer AS-2)**

Schedule III Disclosure Requirement	Points
Inventories shall be classified as – (a) Raw materials, (b) Work In Progress, (c) Finished Goods, (d) Stock-in-Trade (in respect of goods acquired for Trading), (e) Stores and Spares, (f) Loose Tools, (g) Others (specify nature) **Note:** Goods-in-Transit shall be disclosed under the relevant sub-head of Inventories. Mode of Valuation shall be stated.	• Goods in Transit should be included under relevant heads with suitable disclosure. • The heading "Finished Goods" should comprise of all Finished Goods other than those acquired for trading purposes. Those acquired for trading purposes are to be shown under "Stock in Trade".

(2) (c) TRADE RECEIVABLES

Schedule III Disclosure Requirement	Points
1. Aggregate amount of Trade Receivables outstanding for a period exceeding 6 months from the date they are due for payment should be separately stated. 2. **Security-wise Details:** Trade Receivables shall be separately sub-classified as – (a) Secured, considered Good (b) Unsecured, considered Good (c) Doubtful. 3. **Bad /Doubtful:** Allowance for Bad and Doubtful Loans and Advances shall be disclosed under the relevant heads separately. 4. **Directors, etc:** Debts due by Directors or Other Officers of the Company or any of them either severally or jointly with any other person or debts due by Firms or Private Companies respectively in which any Director is a Partner or a Director or a Member should be separately stated.	• Sch III requires separate disclosure of "Trade Receivables O/s for a period exceeding 6 months **from the date they become due for payment",** only for the current portion of Trade Receivables. • Where no due date is specifically agreed upon, normal credit period allows by the Company should be taken into consideration for computing the due date, which may vary depending upon the Nature of Goods or Services sold and the Type of Customers, etc. • Amounts due under contractual obligations, e.g. dues in respect of Insurance Claims, Sale of Fixed Assets, Contractually Reimbursable Expenses, Interest Accrued on Trade Receivables, etc, cannot be included within Trade Receivables, such Receivables should be classified as "Other Current Assets" and each such item should be disclosed nature –wise. • **Lean Period Activities:** Receivables arising out of sale of materials / rendering of services during a Company's lean period, should be included under "Trade Receivables", if such activity is in the normal course of business. If they are not part of "normal course of business", they are to be classified under "**Other Assets".**

(2) (d) CASH AND CASH EQUIVALENTS **(Also Refer AS – 3)**

Schedule III Disclosure Requirement	Points
Cash and Cash Equivalents shall be classified as – (a) Balances with Banks, (b) Cheques, Drafts on Hand, (c) Cash on Hand, (d) Other (Specify nature). Notes: • Earmarked Balances with Banks (e.g. for Unpaid Dividend) shall be separately stated. • Balances with Banks to the extent held as margin Money or Security against the Borrowings, Guarantees, Other Commitments shall be disclosed separately. • Repatriation restrictions, if any, in respect of Cash and Bank Balances shall be separately stated. • Bank Deposits with more than 12 months Maturity shall be disclosed separately.	• "Other Bank Balances" would comprise items like Balances with Banks to the extent of held as Margin Money or Security against Borrowings etc. and Bank Deposits with more than 3 months maturity. • Bank Deposits with more than 12 months maturity will also need to be separately disclosed under the above sub-head. • The Non-Current Portion of each of the above balances should be classified under the head "Other Non-Current Assets" with separate disclosure thereof.

(2) (e) SHORT TERM LOANS AND ADVANCES

Schedule III Disclosure Requirement	Points
1. General Classification: Short-Term Loans and Advances shall be classified as – (a) Loans and Advances to Related Parties (giving details thereof), (b) Others (specify nature). **2. Security-wise Classification:** The above shall also be sub-classified as- (a) Secured, considered Good, (b) Unsecured, considered Good, (c) Doubtful **3. Bad / Doubtful:** Allowance for Bad and Doubtful Loans and Advances shall be disclosed under the relevant heads separately. **4. Directors, etc.**: Loans & Advances due by Directors or Other Officers of the Company or any of them either severally or Jointly with any other person or amounts due by Firms or Private Companies respectively in which any Director is a Partner or a Director or a Member shall be separately stated.	Principles given for Long Term Loans and Advances will apply here, to the extent relevant.

(f) OTHER CURRENT ASSETS

Schedule III Disclosure Requirement	Points
• This is an all-inclusive heading, which incorporates Current Assets that do not fit into any other Asset Categories. • Nature of each item should be specified	• This is an **all-inclusive heading**, which incorporates Current Assets that do not fit into any other asset categories, e.g. Unbilled Revenue, Unamortized Premium on Forward Contracts, etc. • In case any amount classified under this category is doubtful, it is advisable that such doubtful amount as well as any provision made there against should be separately disclosed.

Special Point: UNAMORTISED PORTION OF SHARE ISSUE EXPENSES, etc.

1. Sch III does not contain any specifies disclosure requirement for the unamortized portion of expense items such as Share Issue Expenses, Ancillary Borrowing Costs and Discount or Premium relating to Borrowings.
2. As per AS-16, Ancillary Borrowing Costs and Discount or Premium relating to Borrowings could be amortized over the loan period. Further, share Issue Expenses, Discount on Shares, Ancillary Costs-Discount, Premium on Borrowing, etc. being special nature items, are excluded from the scope of AS-26 Intangible Assets.
3. Certain companies have taken a view that it is an acceptable practice to amortize these expenses over the period of benefit, i.e. normally 3 to 5 years.
4. **Conclusion:** Sch III does not deal with any accounting treatment of these items, and the same continues to be governed by the respective AS / best practices. So, a Company can disclose the Unamortized Portion of such expenses as "Unamortized Expenses", under the head "Other Current/ Non-Current Assets", depending on whether the amount will be amortized in the next 12 months or thereafter.

PART II – FORM OF STATEMENT OF PROFIT AND LOSS

Name of the Company :……

Profit and Loss Statement for the year ended:…….. (₹ in ……..)

	Particulars	**Note No.**	**Figures for the Current Reporting Period**	**Figures for the Previous Reporting Period**
I	Revenue from Operations		XXX	XXX
II	Other Income		XXX	XXX
III	**Total Revenue (I+II)**		**XXX**	**XXX**
IV	**Expenses:**			
	Cost of Materials Consumed		XXX	XXX
	Purchases of Stock-In-Trade		XXX	XXX
	Changes in Inventories of Finished Goods / Work-in-progress and Stock-In-Trade		XXX	XXX
	Employee Benefits Expense			
	Finance Costs			
	Depreciation and Amortization Expense			
	Other Expenses			
	Total Expenses		**XXX**	**XXX**
V	Profit before Exceptional & Extraordinary Items and Tax (III – IV)		XXX	XXX
VI	Exceptional Items		XXX	XXX
VII	Profit before Extraordinary Items and IAX (V-VI)		XXX	XXX
VIII	Extraordinary Items		XXX	XXX
IX	Profit before Tax (VII-VIII)		XXX	XXX
X	Tax Expenses:			
	(1) Current Tax		XXX	XXX
	(2) Deferred Tax		XXX	XXX
XI	Profit /(Loss) for the period from Continuing Operations (IX – X)		XXX	XXX
XII	Profit /(Loss) from Discontinuing Operations		XXX	XXX
XIII	Tax Expense of Discontinuing Operations		XXX	XXX
XIV	Profit /(Loss) from Discontinuing Operations (After Tax) (XII-XIII)		XXX	XXX
XV	Profit / (Loss) for the period (XI + XIV)		XXX	XXX
XVI	Earnings per Equity Share:		XXX	XXX
	(1) Basic			
	(2) Diluted			

General Instructions for preparation of Statement of P&L

Item	Description	
1. Sec.25 Companies	The provisions of this Part shall apply to the Income and Expenditure Account referred to in Sec. 129 of the Act, in like manner as they apply to a Statement of Profit and Loss.	
2. Revenue from Operations	**For Company other than a Finance Company:** Revenue from Operations shall disclose separately in the Notes, Revenue from – (a) Sale of Products (b) Sale of Services (c) Other Operating Revenues (d) **Less:** Excise Duty	**For Finance Company:** Revenue from Operations shall include Revenue from: (a) Interest & (b) Other Financial Services Revenue under each of the above heads shall be disclosed separately by way of Notes to Accounts to the extent applicable.
3. Finance Costs	Finance Costs shall be classified as – (a) Interest Expenses, (b) Other Borrowing Costs, (c) Applicable Net Gain / Loss on Foreign Currency Transactions and Translation.	
4. Other Income	Other Income shall be classified as – (a) Interest Income (in case of a Company other than a Finance Company), (b) Dividend Income, (c) Net Gain/Loss on Sale of Investments, (d) Other Non-Operating Income (Net of Expenses directly attributable to such income).	
5. Additional Information:	A Company shall disclose by way of **Notes, additional information regarding** Aggregate Expenditure and Income on the following items referred below.	

(i) Employee Benefits, Expense, Income Items, etc:

(a) **Employee Benefits Expense** [showing separately – (i) Salaries & Wages, (ii) Contribution to PF and Other Funds, (iii) Expense on ESOP and Employee Stock Purchase Plan (ESPP), (iv) Staff Welfare Expenses]

(b) Depreciation and Amortization Expenses,

(c) Any item of Income of Expenditure which exceeds 1% of Revenue from Operations or ₹ 1,00,000 whichever is **higher**,

(d) Interest Income,

(e) Interest Expense,

(f) Dividend Income,

(g) Net Gain / Loss on Sale of Investments,

(h) Adjustments to the Carrying Amount of Investments,

(i) Net Gain / Loss on Foreign Currency Transaction & Translation (other than considered as Finance Cost),

(j) Payments to the Auditor as – (a) Auditor, (b) For Taxation Matters, (c) For Company Law Matters, (d) For Management Services, (e) For other Services, (f) For Reimbursement of Expenses,

(k) Item of Exceptional and Extraordinary Nature,

(l) Prior Period Items.

(ii) Materials, Goods, Services, etc.

(a) In the case of **Manufacturing Companies –**

- Raw Materials under broad heads.
- Goods Purchased under broad heads.

(b) In the case of **Trading Companies**, Purchases in respect of goods Traded in by the Company under broad heads.

(c) In the case of **Companies rendering or supplying services**, Gross Income derived from Services Rendered or Supplied, under broad heads.

(d) In the case of a Company, which falls under more than one of the categories mentioned in (a), (b) and (c) above, it shall be sufficient compliance with the requirements herein if Purchases, Sales and Consumption of Raw Material and the Gross Income from Services rendered is shown under broad head.

(e) In the case of **Other Companies**, Gross Income derived under broad heads.

(iii) In the case of **all concerns having Works-in-Progress,** Works-in-Progress under broad heads**.**

(iv) Reserves – Creation & Utilisation:

(a) The aggregate, if materials, of any amounts set aside or proposed to be set aside, to Reserve, but not including Provisions made to meet any Specific Liability, Contingency or Commitment known to exist at the date as to which the Balance – Sheet is made up.

(b) The aggregate, if material, of any amounts withdrawn from such Reserves.

(v) Provision – Creation & Utilisation:

(a) The aggregate, if material, of the amounts set aside to Provisions made for meeting Specific Liabilities, Contingencies or Commitments.

(b) The aggregate, if material, of the amounts withdrawn from such provisions, as no longer required.

(vi) Expenses, etc: Expenditure incurred on each of the following items, separately for each item:

(a) Consumption of Stores and Spare Parts,

(b) Power and Fuel,

(c) Rent,

(d) Repairs to Buildings,

(e) Repairs to Machinery,

(f) Repairs to Machinery,

(g) Insurance,

(h) Rates and Taxes, excluding, Taxes on Income,

(i) Miscellaneous Expenses.

(vii) Subsidiaries Information:

(a) Dividends from Subsidiary Companies.

(b) Provisions for Losses of Subsidiary Companies.

(viii) FOREX Information: The P&L A/c shall also contain by way of a Note the following Information, namely –

(a) Value of Imports Calculated on **CIF basis** by the Company during the Financial Year in respect of – (I) Raw Materials, (II) Components and Spare Parts, (III) Capital Goods,

(b) Expenditure in Foreign Currency during the Financial Year on account of Royalty, Know-How, Professional and Consultation Fees, Interest, and Other Matters,

(c) Total Value if all **Imported** Raw Materials, Spare Parts and Components consumed during the Financial Year and the Total Value of all **Indigenous** Raw Materials, Spare Parts and Components similarly consumed and the Percentage of each to the Total Consumption,

(d) Amount **remitted** during the year in Foreign Currencies on account of **Dividends** with a specific mention of the total number of Non-Resident Shareholders, the Total Number of Shares held by them on which the Dividends were due and the year to which the Dividends related.

(e) Earnings in Foreign Exchange classified under the following heads, namely-

- Export of Goods calculated on FOB Basis,
- Royalty, Know-How, Professional & Consultation Fees,
- Interest and Dividend,
- Other Income, indicating the nature thereof.

Note: Broad heads shall be decided taking into account the concept of **Materiality** and **Presentation of True and Fair view** of Financial Statements**.**

Illustration 1:

The following information has been extracted from the books of account of Hero Ltd. as at 31st March, 2015:

	Dr. (₹ '000)	Cr. (₹ '000)
Administration Expenses	480	
Cash at Bank and on Hand	228	
Cash Received on Sale of Fittings		10
Long Term Loan		70
Investments	200	
Depreciation on Fixtures, Fittings, Tools and Equipment (1st April, 2014)		260
Distribution Costs	102	
Factory Closure Costs	60	
Fixtures, Fittings, Tools and Equipment at Cost	680	
Profit & Loss Account (at 1st April, 2014)		80
Purchase of Equipment	120	
Purchases of Goods for Resale	1710	
Sales (net of Excise Duty)		3,000
Share Capital (1,00,000 shares of ₹ 10 each fully paid)		1,000
Stock (at 1st April, 2014)	140	
Trade Creditors		80
Trade Debtors	780	
	4,500	4,500

Additional Information:

(1) The stock at 31st March, 2015 (valued at the lower of cost or net realizable value) was estimated to be worth ₹ 2,00,000.

(2) Fixtures, fittings, tools and equipment all related to administration. Depreciation is charged at a rate of 20% per annum on cost. A full year's depreciation is charged in the year of acquisition, but no depreciation is charged in the year of disposal.

(3) During the year to 31st March, 2015, the Company purchased equipment of ₹ 1,20,000. It also sold some fittings (which had originally cost ₹ 60,000) for ₹ 10,000 and for which depreciation of ₹ 30,000 had been set aside.

(4) The average Income tax for the Company is 50%. Factory closure cost is to be presumed as an allowable expenditure for Income tax purpose.

(5) The company proposes to pay a dividend of 20% per Equity Share.

Prepare Hero Ltd.'s Profit and Loss Account for the year to 31st March, 2015 and balance Sheet as at that date in accordance with the Companies Act, 2013 in the Vertical Form along with the Notes on Accounts containing only the significant accounting policies.

Solution:

Name of the Company: Hero Ltd.

Balance Sheet as at: 31st March, 2015 (₹ in '000)

Ref No.	Particulars		Note No.	As at 31st March, 2015	As at 31st March, 2014
	I	**EQUITY AND LIABILITIES**			
	1	**Shareholder's Fund**			
		(a) Share capital	1	1,000	
		(b) Reserves and surplus	2	150	
	2	**Share application money pending allotment**		NIL	
	3	**Non-current liabilities**			
		(a) Long-term borrowings	3	70	
	4	**Current Liabilities**			
		(a) Other current liabilities	4	80	
		(b) Short-term provisions	5	470	
		Total (1+2+3+4)		1,770	
	II	**ASSETS**			
	1	Non-current assets			
		(a) Fixed assets			
		(i) Tangible assets	6	362	
		(b) Non-current investments	7	200	
	2	**Current assets**			
		(a) Inventories	8	200	
		(b) Trade receivables	9	780	
		(c) Cash and cash equivalents	10	228	
		Total (1+2)		1,770	

Note - Relevant items of Assets/ Liabilities are reflected in Balance Sheet and Schedule III. Hence sub-item not having any value for the given illustration is not shown/ represented in Balance Sheet.

Name of the Company : Hero Ltd.

Profit and Loss Statement for the year ended: 31st March, 2015 (₹ in ……..)

		Note No.		As at 31st March, 2015	As at 31st March, 2014
I	REVENUE FROM OPERATION	11		3,000	
	Less: Excise duty				
				3,000	
II	OTHER INCOME				
III	TOTAL REVENUE(I+II)			3000	
IV	EXPENSES:				
	(a) Cost of material consumed				
	(b) Purchase of products for sale		1,710		
	(c) changes in inventories of finished goods, work-in-progress and products for sale (140-200)		(60)		
	(d) Employees cost/ benefits expenses				
	(e) Finance cost				
	(f) Depreciation and amortization expenses		148		
	(g) Product development expenses/Engineering expenses				
	(h) Other expenses	12	602		
	(i) Expenditure transfer to capital and other account				
	TOTAL EXPENSES			2,400	
V	PROFIT BEFORE EXCEPTIONAL AND EXTRAORDINARY ITEMS AND TAX (III-IV)			600	
VI	EXCEPTIONAL ITEMS				
VII	PROFIT BEFORE EXTRAORDINARY ITEMS AND TAX (V-VI)			600	
VIII	EXTRAORDINARY ITEMS			60	
IX	PROFIT BEFORE TAX FRON CONTINUING OPERATIONS (VII-VIII)			540	
X	Tax expenses:				
	(1) Current Tax			270	
	(2) deferred tax				
XI	PROFIT AFTER TAX FOR THE YEAR FROM CONTINUING OPERATION(IX-X)			270	
XII	Profit (loss) from discontinuing operations				
XIII	Tax expenses from discontinuing operations				
XIV	Profit(loss) from discontinuing operations (after tax)(XII-XIII)				
XV	PROFIT (LOSS) FOR THE PERIOD (XI+XIV)			270	
	Balance brought forward from previous year				
	Profit available for appropriation			80	
				350	
	Appropriation:				
	Proposed dividend		200		
	Transfer to General Reserve		30	230	
	Balance carried forward			120	
XVI	Earning per equity share:				
	(1) Basic				
	(2) Diluted				

(₹ In '000)

Note 1. Share Capital	As at 31st March, 2015	As at 31st March, 2014
Authorized, Issued, Subscribed and paid-up Share capital:		
1,00,000 Equity share of ₹ 10 each	1,000	
Total	1,000	

RECONCILIATION OF SHARE CAPITAL

FOR EQUITY SHARE	As at 31st March, 2015		As at 31st March, 2014	
	Nos.	Amount (₹)	Nos.	Amount (₹)
Opening Balance as on 01.04.11 (Figure in '000)	100	1,000		
Add: Fresh Issue (Including Bonus shares, right shares, split shares, share issued other than cash)				
	100	1,000		
Less: Buy Back of share				
Total	100	1,000		

Note 2. Reserve & Surplus	As at 31st March, 2015	As at 31st March, 2014
General Reserve	30	
Profit and loss A/c	120	
Total	150	

Note 3. Long term borrowings	As at 31st March, 2015	As at 31st March, 2014
Long term loan	70	
Total	70	

Note 4. Trade Payables	As at 31st March, 2015	As at 31st March, 2014
Sundry Creditors	80	
Total	80	

Note 5. Short- term provisions	As at 31st March, 2015	As at 31st March, 2014
Proposed dividend (20% on ₹ 10,00,000)	200	
Provision for Taxation	270	
Total	470	

Note 6. Tangible Assets		As at 31st March, 2015	As at 31st March, 2014
Fixtures, Fittings, Tools and equipment at cost- Opening	680		
Add: Additions	120		
Less: Sale/ disposed	(30)		
Less: Depreciation (260+148)	(408)	362	
Total		362	

Note 7. Non Current Investments	As at 31st March, 2015	As at 31st March, 2014
Investments	200	
Total	200	

Note 8. Inventories	As at 31st March, 2015	As at 31st March, 2014
Stock	200	
Total	200	

Note 9.Trade Receivables	As at 31st March, 2015	As at 31st March, 2014
Trade Debtors (more than six months considered good) –	780	
Total	780	

Note 10. Cash and cash equivalents	As at 31st March, 2015	As at 31st March, 2014
Cash at Bank and on hand	228	
Total	228	

Note 11. Revenue from operation	As at 31st March, 2015	As at 31st March, 2014
Sales (net of Excise Duty)	3,000	
Total	3,000	

Note 12. Other Expenses	As at 31st March, 2015	As at 31st March, 2014
Administrative Expenses	480	
Distribution Expenses	102	
Loss on sale of Fixed Assets	20	
Total	602	

Notes:

(1) The rate of interest on long term loan is not given in the question. Reasonable assumption may be made regarding the rate of interest and accordingly it may be accounted for.

(2) As per Companies (Transfer of Profits to Reserve) Rules, the amount to be transferred to the reserves shall not be less than 7.5% of the current profits since proposed dividend exceeds 15% but does not exceed 20% of the paid up capital. In this answer, it has been assumed that ₹. 30,000 have been transferred to General Reserve. The students may transfer any amount based on a suitable percentage not less than 7.5%.

(3) In the absence of details regarding factory closure costs, there costs are treated as extraordinary items in the above solution assuming that the factory is permanently closed. However, the factory may close for a short span of time on account of strikes, lockouts etc. and such type of factory closure costs should be treated as loss from ordinary activities. In that case also, a separate disclosure regarding the factory closure costs will be required as per para 12 of AS 5 (Revised) 'Net Profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies.'

NOTES ON ACCOUNTS FOR THE YEAR ENDED 31ST MARCH, 2015

Significant Accounting Policies:

(a) Basis for preparation of financial statements: The financial statements have been prepared under the historical cost convention, in accordance with the generally accepted accounting principles and the provisions of the companies Act, 2013 as adopted consistently by the company.

(b) Depreciation: Depreciation on fixed assets is provided using the straight-line method, based on the period of five yea₹ Depreciation on additions is provided for the full year but no depreciation is provided on assets sold in the year of their disposal.

(c) Investments: Investments are valued at lower of cost or net realizable value.

(d) Inventories: Inventories are valued at the lower of historical cost or the net realizable value.

Working Notes:

	Particulars		(₹ in '000)
(1)	**Tangible Asset**		
	Furniture and Fixtures		
	Gross Block		
	As on 1.4.2014	680	
	Add: Additions during the year	120	
		800	
	Less: Deductions during the year	60	
	As on 31.3.2015		740
	Depreciation		
	As on 1.4.2014	260	
	For the year (20% on 740)	148	
		408	
	Less: Deduction during the year	30	
	As on 31.3.2015		378
	Net block as on 31.3.2015		362
(2)	Provision for taxation		
	Profit as per profit and loss account		540
	Add back: Loss on sale of asset (short term capital loss)	20	
	Depreciation	148	
			168
			708
	Less: Depreciation under Income-tax Act		168
			540
	Provision for tax @ 50%		270

It has been assumed that depreciation calculated under Income-tax Act amounts to (₹ 1,68,000)

Illustration 2:

The following balances are extracted from the books of Supreme Ltd., a real estate company, on 31st March, 2015:

		(₹ '000)
	Dr.	**Cr.**
Sales		13,800
Purchases of materials	6,090	
Share capital fully paid		500
Land purchased in the year as stock	365	
Leasehold premises	210	
Creditors		2,315
Debtors	3,675	
Directors' salaries	195	

Wages	555	
Work in progress on 01.04.2014	1,050	
Sub-contractors' cost	4,470	
Equipment, Fixtures and Fittings at cost on 01.04.2014	1,320	
Stock on 01.04.2014	295	
Profit and Loss Account, Credit Balance on 01.04.2014		640
Secured Loan		560
Bank Overdraft		525
Interest on Loan and Overdraft	110	
Depreciation on Equipment on 01.04.2014		820
Administration Expenses	735	
Office Salaries	90	
	19,160	19,160

You also obtain the following information:

(a) On 31st March, 2015, stock on hand including the land acquired during the year, is valued at ₹ 7,10,000. Work in progress at that date is valued at ₹ 7,00,000.

(b) On 1st October, 2014 the company moved to new premises. The premises are on a 12 years lease and the lease premium paid amounted to ₹ 2,10,000. The company used sub-contract labour of ₹ 2,00,000 and materials at cost of ₹ 1,90,000 in the refurishment of the premises. These are to be considered as part of the cost of leasehold premises.

(c) A review of the debtors reveals specific doubtful debts of ₹ 1,75,000 and the directors wish to provide for these together with a general provision based on 2% of the balance.

(d) Depreciation on equipment, fixtures and fittings is provided at 15% on the written down value.

(e) Supreme Ltd. sued Shallow Ltd. for supplying defective materials which has been written off as valueless. The Directors are confident that Shallow Ltd. will agree for a settlement of ₹ 2,50,000.

(f) The directors propose a dividend of 25%.

(g) ₹ 1,00,000 is to be provided as audit fee.

(h) The company will provide 10% of the pre-tax profit as bonus to employees in the accounts before charging the bonus.

(i) Income tax to be provided at 50% of the profits.

You are required:

(i) to prepare the company's financial statements for the year ended 31st March, 2015 as near as possible to proper form of company final accounts; and

(ii) to prepare a set of Notes to accounts including significant accounting policies.

Notes: Workings should form part of your answer.

Previous year figures can be ignored.

Figures are to be rounded off to nearest thousands.

Solution:

Name of the Company: Supreme Ltd.

Balance Sheet as at: 31st March, 2015 (₹ in '000)

Ref No.	Particulars		Note No.	As at 31st March, 2015	As at 31st March, 2014
	I	**EQUITY AND LIABILITIES**			
	1	**Shareholder's Fund**			
		(a) Share capital	1	500	
		(b) Reserves and surplus	2	945	
	2	**Share application money pending allotment**		NIL	
	3	**Non-current liabilities**			
		(a) Long-term borrowings	3	560	
	4	**Current Liabilities**			
		(a) Short-term borrowings	4	525	
		(b) Trade payables	5	2,315	
		(c) Other current liabilities	6	100	
		(d) Short-term provisions	7	895	
		Total (1+2+3+4)		5840	
	II	**ASSETS**			
	1	Non-current assets			
		(a) Fixed assets			
		(i) Tangible assets	7	1,000	
	2	**Current assets**			
		(a) Inventories	8	1,410	
		(b) Trade receivables	9	3,430	
		Total (1+2)		5840	

Note - Relevant items of Assets/ Liabilities are reflected in Balance Sheet and Schedule III. Hence sub-item not having any value for the given illustration is not shown/ represented in Balance Sheet.

Name of the Company : Supreme Ltd.

Profit and Loss Statement for the year ended: 31st March, 2015 (₹ in ……..)

Ref. No.	Particualrs	Note No.		As at 31st March, 2015	As at 31st March, 2014
I	REVENUE FROM OPERATION	11		13,800	
	Less: Excise duty				
				13,800	
II	OTHER INCOME				
III	TOTAL REVENUE(I+II)			13,800	

Ref. No.	Particualrs	Note No.		As at 31st March, 2015	As at 31st March, 2014
IV	EXPENSES:				
	(a) Cost of material consumed	12		11,025	
	(b) Purchase of products for sale				
	(c) changes in inventories of finished goods, work-in-progress and products for sale				
	(d) Employees cost/ benefits expenses	13		405	
	(e) Finance cost			110	
	(f) Depreciation and amortization expenses			100	
	(g) Other expenses	14		1,080	
	TOTAL EXPENSES			12,720	
V	PROFIT BEFORE EXCEPTIONAL AND EXTRAORDINARY ITEMS AND TAX (III-IV)			1,080	
VI	EXCEPTIONAL ITEMS				
VII	PROFIT BEFORE EXTRAORDINARY ITEMS AND TAX (V-VI)			1,080	
VIII	EXTRAORDINARY ITEMS				
IX	PROFIT BEFORE TAX FRON CONTINUING OPERATIONS (VII-VIII)			1,080	
X	Tax expenses:				
	(1) Current Tax			650	
	(2) deferred tax				
XI	PROFIT AFTER TAX FOR THE YEAR FROM CONTINUING OPERATION(IX-X)			430	
XII	Profit (loss) from discontinuing operations				
XIII	Tax expenses from discontinuing operations				
XIV	Profit(loss) from discontinuing operations (after tax)(XII-XIII)				
XV	PROFIT (LOSS) FOR THE PERIOD (XI+XIV)			430	
	Balance brought forward from previous year			640	
	Profit available for appropriation			1,070	
	Appropriation:				
	Proposed dividend		125		
	Transfer to General Reserve		45	170	
	Balance carried forward			900	
XVI	Earning per equity share:				
	(1) Basic				
	(2) Diluted				

(₹ In '000)

Note 1. Share Capital	As at 31st March, 2015	As at 31st March, 2014
Authorized, Issued, Subscribed and paid-up Share capital:		
50,000 Equity share of ₹ 10 each	500	
Total	500	

RECONCILIATION OF SHARE CAPITAL

FOR EQUITY SHARE	As at 31st March, 2015		As at 31st March, 2014	
	Nos.	Amount (₹)	Nos.	Amount (₹)
Opening Balance as on 01.04.14 (Figure in '000)	50	500		
Add: Fresh Issue (Including Bonus shares, right shares, split shares, share issued other than cash)				
	50	500		
Less: Buy Back of share				
Total	50	500		

Note 2. Reserve & Surplus	As at 31st March, 2015	As at 31st March, 2014
General Reserve	45	
Profit and loss A/c	900	
Total	945	

Note 3. Long term borrowings	As at 31st March, 2015	As at 31st March, 2014
Secured Loan	560	
Total	560	

Note 4. Short-term borrowings	As at 31st March, 2015	As at 31st March, 2014
Bank Overdraft	525	
Total	525	

Note 5. Trade Payables	As at 31st March, 2015	As at 31st March, 2014
Sundry Creditors	2,315	
Total	2,315	

Note 6. Other Current Liabilities	As at 31st March, 2015	As at 31st March, 2014
Audit fees	100	
Total	100	

Note 7. Short- term provisions	As at 31st March, 2015	As at 31st March, 2014
Proposed dividend	125	
Provision for Taxation	650	
Provision for bonus	120	
Total	895	

Note 8. Tangible Assets		As at 31st March, 2015	As at 31st March, 2014
Equipment, Fixtures & Fittings at cost- Opening	1,320		
Less: Depriciation	895	425	
Leasehold premises (210+200+190)	600		
Less: Witten off	25	575	
Total		1,000	

Note 9. Inventories	As at 31st March, 2015	As at 31st March, 2014
Stock – Finished stock	710	
Work in progress	700	
Total	1410	

Note 10.Trade Receivables	As at 31st March, 2015	As at 31st March, 2014
Trade Debtors (more than six months)	3,675	
Less: Provision for doubtful debts	245	
Total	3,430	

Note 11. Revenue from operation	As at 31st March, 2015	As at 31st March, 2014
Sales (net of Excise Duty)	13,800	
Total	13,800	

Note 12. Cost of materials Consumed		As at 31st March, 2015	As at 31st March, 2014
Manufacturing expenses- Opening Stock (FG)	295		
Opening WIP	1,050	1,345	
Purchase of materials (6,090-190)		5,900	
Purchase of land as stock		365	
Wages		555	
Sub-contract Cost (4,470-200)		4,270	
Less: Closing Stock- Finished goods	710		
Work in progress	700	(1,410)	
Total		11,025	

Note 13. Employees benefit expenses	As at 31st March, 2015	As at 31st March, 2014
Salary- office staff (90+195)	285	
Bonus	120	
Total	405	

Note 14. Other Expenses	As at 31st March, 2015	As at 31st March, 2014
Administrative Expenses	735	
Provision for doubtful debts	245	
Auditors remuneration	100	
Total	1,080	

NOTES ON ACCOUNTS FOR THE YEAR ENDED 31ST MARCH, 2015

Significant Accounting Policies:

(a) Basis for preparation of financial statements: The financial statements have been prepared under the historical cost convention, in accordance with the generally accepted accounting principles and the provisions of the companies Act, 2013 as adopted consistently by the company.

(b) Fixed Assets: Fixed assets are shown at cost less depreciation. Cost comprises the purchase prise and other attributable expenses.

(c) Depreciation: Depreciation on fixed assets is provided using the written down method. Lease-hold premises/improvements are being amortised over the lease period.

(d) Inventories: Inventories are valued at the lower of historical cost or the net realizable value.

1. Other Matters:

(a) The cost of leasehold premises includes the cost of refurbishment to the extent of ₹ 3,90,000 (Materials ₹ 1,90,000 + Labour ₹ 2,00,000).

(b) Shallow Ltd. has been sued for supplying defective materials. Settlement of ₹ 2,50,000 is hopeful however it has not been recognized in the accounts as it represents contingent gain.

(1a)	Administration Expenses		735
	Directors' Salaries		195
	Provision for Doubtful Debts [175 + 2% of (3675 – 175)]		245
	Audit Fees		100
	Other expenses		1,275
b)	Employee Benefits:		
	Office salaries		90
			120
	Bonus		210
(2)	Bonus Calculation		
	Sales		13,800
	Less: Manufacturing Expenses	11,025	
	Other Exp. (excluding bonus)	1,365	
	Depreciation	100	
	Interest	110	
			12,600
	Pre-tax Profit		1,200
	Bonus (10%)		120

(3)	Fixed Asset:		
	Tangible Asset		
	(a) Gross block		
	Furniture and Fixture		1,320
	Leasehold Premises (210 + 200 + 190)		600
			1,920
	(b) Depreciation		
	Furniture and fixture(1.4.2014) 820	820	
	For the year [15% on (1,320– 820)]	75	
	Cost of Leasehold Premises written off		895
	[(210 + 200 + 190) X 1/12 X 1/2]		25
			920
(4)	Provision for Taxation		
	Profit as per Profit and Loss Account		1,080
	Add back: Provision for doubtful debts	245	
	Cost of Leasehold premises written off	25	
	Depreciation on equipment, fixtures and fittings	75	345
			1,425
	Less: Depreciation under Income-tax Act		125
			1,300
	Provision for Tax (@ 50%)		650
	(It has been assumed that depreciation calculated under Income-tax Act amounts to ₹ 1,25,000)		

Study Note - 8

LIQUIDATION OF COMPANIES

MODES OF LIQUIDATION

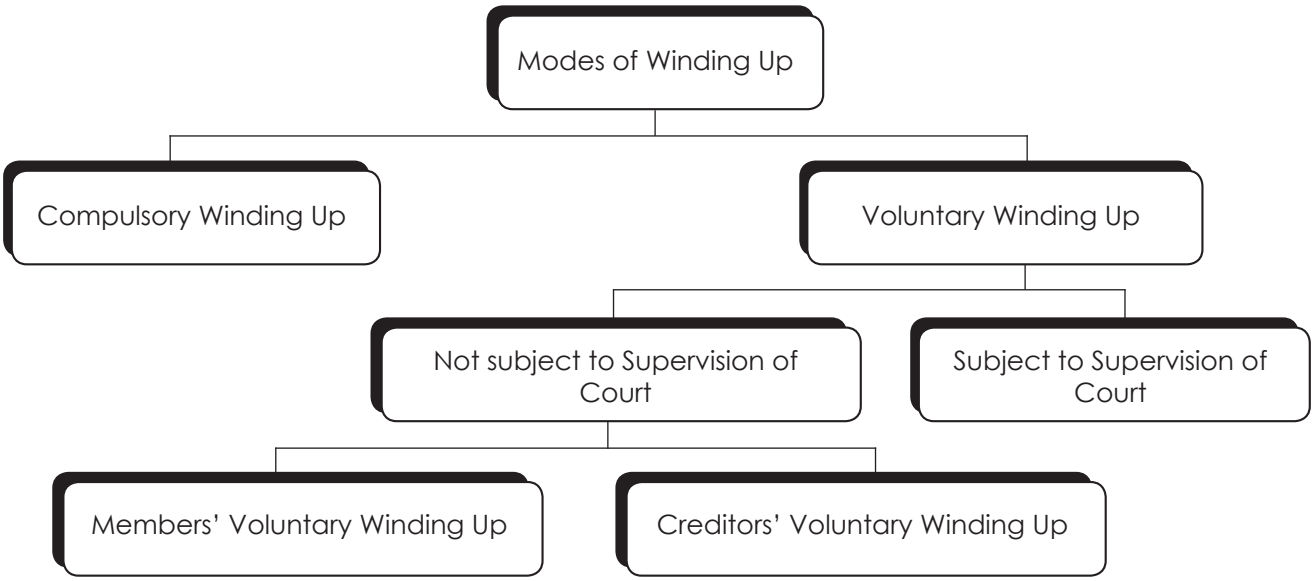
Meaning of Liquidation

"Liquidation or winding up a company is the process whereby its life is ended and its property is administered for the benefit of its creditors and members."

An administrator called liquidator, is appointed and he takes control of the company, collects its assets, pays its debts and finally distributes any surplus among the members in accordance with their rights.

Different Modes of Winding Up

The three different modes of winding up are as under:



Compulsory Winding Up u/s 433 to 465:

According to Section 433 of The Companies Act, the Tribunal may order for the compulsory winding up of a company in the following circumstances:

(a) if the company has by a **special resolution** resolved that it shall be wound up by the court;

(b) if default is made in delivering the statutory report to the Registrar *or* in holding the statutory meeting;

(c) if the company does **not commence** its **business within 1 year** from its incorporation or suspends its business for a whole year;

(d) if the number of **members** if reduced below 7 in case of a public company *or* below 2 in case of a private company;

(e) if the company is **unable to pay** its debts;

(f) if the Tribunal is of opinion that it is **just and equitable** to wind up the company.

(g) if the company has made a default in filing with the registrar its Balance Sheet and Profit and Loss Account or annual return for any five consecutive financial years.

(h) if the company has acted against the interest of the sovereignty and integrity of India, the security of the state, friendly relations with foreign States, public order, decency or morality.

(i) if the tribunal is of the opinion that the company should be wound up under the circumstances specified in section 424(g).

Voluntary Winding Up u/s 484 to 521:

According to Section 484 of The Companies Act, a company may be wound up voluntarily:

(a) By passing an **ordinary resolution** in the general meeting.

  (i) When the period for the duration for which the company was formed, has expired; *or*

  (ii) When the event on the happening of which the termination of the existence of the Company was depended, has occured.

(b) By passing **special resolution** to wind up voluntarily.

There may be two kinds of Voluntary Winding up:

1. Members' Voluntary Winding up	1. When the directors are in position to make a Statutory Declaration of Solvency u/s 488
2. Creditors' Voluntary Winding up	2. When the directors are not in position to, make a Statutory Declaration of Solvency u/s 488

Voluntary Winding Up subject to the supervision of Court u/s 522 to 527

According to Section 522 of The Companies Act, the Court may on the application of any creditors or contributory or liquidator of the company itself, order for the winding up under its supervision under any of the following circumstances:

(a) the liquidator under voluntary winding up is prejudiced or is negligent in collecting the assets of the company;

(b) the resolution for winding up was obtained by fraud.

WHEN IS THE WINDING UP DEEMED TO COMMENCE?

Type of Winding up	Date of Commencement
(a) In case of Compulsory Winding up	(a) The winding up commences from the date of filling earliest petition or passing of special resolution whichever is earliest.
(b) In case of Voluntary Winding up	(b) The winding up commences from the date of passing the resolution.

LIQUIDATOR'S STATEMENT OF ACCOUNT

Who appoints a Liquidator?

Type of Winding up	Appointment of Liquidator
(a) In case of Compulsory Winding up	(a) The Official Liquidator attached to High Court is appointed by the Central Government
(b) In case of Members' Voluntary Winding up	(b) Person (other than body corporate) is appointed by the Company in its general meeting.
(c) In case of Creditors' Voluntary Winding up	(c) Person (other than body corporate) is appointed by the Creditors in their meeting.

STATEMENT OF AFFAIRS

Meaning of the Statement of Affairs: Statement of Affairs shows:

(a) **With regard to Assets:**

(i) Estimated Realisable Value of Assets not specifically pledged (as per list A).

(ii) Estimated Surplus from Assets specifically pledged (as per list B).

(iii) Estimated Total Assets available for creditors and contributories.

(b) **With regard to Liabilities:**

(i) Secured Creditors (as per List B).

(ii) Preferential Creditors (as per List C).

(iii) Debenture holders secured by floating charge (as per List D).

(iv) Unsecured Creditors (as per List E).

(c) **With regard to Share Capital:**

(i) Paid up Preference Share Capital (as per List F).

(ii) Paid up Equity Share Capital (as per List G).

(d) **Estimated deficiency/surplus as regards contributories (as per list H).**

Who are required to Submit? The directors, secretary, manager or chief officer of the Company are required to make out and submit a statement as to the affairs of the Company.

Time Limit within which the Statement is required to be Submitted? Such statement is required to be submitted within 21 days from the date of appointment of provisional liquidator or the date of winding up order as the case may be. The Official Liquidator or the Court may extend this time upto 3 months.

Verification and Signature of Statement: Such statement must be duly verified by an affidavit and signed by a director and the manager, secretary or other Chief Officer of the Company or by such other person as the Official Liquidator subject to the direction of the Court, may require.

To Whom such Statement be submitted?

Type of Winding up	Statement is required to be submitted...
(a) In case of Compulsory Winding up	(a) To the Official Liquidator.
(b) In case of Voluntary Winding up	(b) To the Liquidator.

Statement of Affairs as on **(Amount in ₹)**

Particulars	**ERV**
Assets not specifically pledged as per List A: (ERV = Estimated Realizable Value)	
Cash in hand	
Marketable Securities	
Calls in Arrears	
Trade Debtors, Stock in Trade etc.	
Machinery etc.	
Total	**(A)**

Assets specifically pledged as per List B

Details of asset	**ERV**	**Due to Secured Creditors**	**Deficiency ranking as unsecured**	**Surplus carried to last column**	
Estimated Surplus from Assets specifically pledged (as calculated above) Estimated Total Assets available for Preferential Creditors, Debenture holders having a Floating Charge and Unsecured Creditors (A+B)					(B)

Summary of Gross Assets

Gross Receivable Value of assets specifically pledged Assets not specifically pledged	(C) (A)
Total	**(D) = (A) + (C)**

Gross Liabilities (to be deducted from Surplus or added to Deficiency)

₹	**Particulars**	₹
	Secured Creditors as per List B to the extent to which claims are estimated to be covered by assets specifically pledged	
	Preferential Creditors as per List C	
	Estimated Balance of Assets available for Debenture holders secured by a	
	Floating Charge and Unsecured Creditors	
	Debenture holders secured by a Floating Charge as per List D	....
	Estimated Surplus / (Deficiency) as regards Debenture holders	....
	Unsecured Creditors as per List E	....
(E)		
	Estimated Surplus / (Deficiency) as regards Creditors [being the difference	....
	between Gross Assets and Gross Liabilities] [(D) - (E)I	
	Issued & Called up Capital:	....
	Preference Share Capital as per List F	....
	Equity Share Capital as per List G	....
	Estimated Surplus / (Deficiency) as regards Members	

3. What are the Lists associated with the Statement of Affairs?

The following lists are associated with the Statement of Affairs

List	Particulars
A	Full particulars of every description of property **not specifically pledged** and included in any other list.
B	Assets **specifically pledged** and Creditors fully or partly secured.
C	List of Preferential Creditors for Rates, Taxes, Salaries, Wages and otherwise.
D	List of Debenture holders secured by a floating charge
E	List of Unsecured Creditors
F	List of Preference Shareholders
G	List of Equity Shareholders
H	Deficiency Account

DEFICIENCY ACCOUNT, IN THE CONTEXT OF LIQUIDATION OF COMPANIES

Deficiency Account

Meaning	Deficiency Account explains how the deficiency stated in the Statement of Affairs has taken place. It is divided into two parts: (a) Items Contributing to Deficiency which start with the deficit on a given date and contains every item that increases deficiency. (b) Items reducing Deficiency which start with the surplus on a given date and contain every item that reduces deficiency.
Balance	The excess of first part over the second part is deficiency and the excess of second part over the first part is surplus. The amount of such deficiency/ surplus must be the same as shown by the Statement of Affairs.
Period	Deficiency Account must be prepared for such period being not less than 3 years as may be directed by the Official Liquidator (in case of Compulsory Winding Up) or Liquidator (in case of Voluntary Winding up)
Format	Deficiency Account is prepared in prescribed form (i.e., List H).

OVERRIDING PREFERENTIAL PAYMENTS U/S 326 OF THE COMPANIES ACT, 2013

Overriding Preferential Payments [Section 326]

According to Section 326 following are the over-riding preferential payments:

(a) Workmen's dues;

(b) So much of the debts due to the secured creditors as could not be realised by him because of pari-passu charge in favour of workmen, over the security held by him.

All such debts must be paid in full unless the assets are insufficient, in which case they shall abate in equal proportion.

As per Sec 325(3)(b) workmen's dues, in relation to a company, mean the aggregate of the following sums:

(a) **all wages or salary** including wages payable for time or piece work and salary earned wholly or in part by way of commission of any workman and any compensation payable to any workman under any of the provisions of the Industrial Disputes Act, 1947;

(b) **all accrued holiday remuneration** becoming payable to any workman or in the case of his death to any other person in his right, on the termination of his employment before, or by the effect of, the winding up order;

(c) all amounts due in respect of **any compensation** or liability for compensation under Workmen's Compensation Act, 1923, in respect of death or disablement of any workman of the company;

(d) all sums due to any workman from a **provident fund, a pension fund, a gratuity fund** or any other fund for the welfare of the workmen maintained by the company.

As per Sec 325 (3) (a) "workmen" in relation to a company, means the employees of the company, being workmen within the meaning of the Industrial Dispute Act, 1947.

PREFERENTIAL PAYMENTS U/S 327 OF THE COMPANIES ACT, 2013

Preferential Creditors [Section 327]

Section 327 provides that subject to the provisions of Section 326, following preferential creditors shall be paid in priority to unsecured creditors or creditor having a floating charge:

(a) All revenues, taxes, cesses and rates, becoming due and payable by the company within 12 months next before the commencement of the winding up.

(b) All wages or salaries (including wages payable for time or piece work and salary earned wholly or in part by way of commission) of any employee due for the period not exceeding 4 months within 12 months next before commencement of winding up provided the amount payable to one claimant will not exceed such amount as may be notified.

(c) All accrued holiday remuneration becoming payable to any employee on termination of employment before winding up order or dissolution of the company.

(d) Unless the company is being wound up voluntarily for the purpose of reconstruction, all contributions payable during the 12 months next under the Employees' State Insurance Act, 1948, or any other law for the time being in force.

(e) All sums due as compensation to employees under the Workmen's Compensation Act, 1923.

(f) All sums due to any employee from a provident fund, pension fund, gratuity fund or any other fund, for the welfare of the employees maintained by the company.

(g) The expenses of any investigation held under Section 213 or 216 in so far as they are payable by the company.

All the preferential debts rank equally among themselves and are to be paid in full unless the assets are insufficient, in which case they will abate in equal proportion.

After retaining sufficient sum for costs, charges and expenses of winding up, preferential debts must be paid forthwith so far as assets are sufficient to meet them.

The debts enumerated in this section shall—

(a) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions; and

(b) so far as the assets of the company available for payment to general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the debts under this section shall be discharged forthwith so far as the assets are sufficient to meet them, and in the case of the debts to which priority is given under clause (d) of sub-section (1), formal proof thereof shall not be required except in so far as may be otherwise prescribed.

In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within three months immediately before the date of a winding up order, the debts to which priority is given under this section shall be a first charge on the goods or effects so distrained on or the proceeds of the sale thereof.

Provided that, in respect of any money paid under any such charge, the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

Any remuneration in respect of a period of holiday or of absence from work on medical grounds through sickness or other good cause shall be deemed to be wages in respect of services rendered to the company during that period.

For the purposes of this section, section 326 and section 327,—

(a) "workmen'', in relation to a company, means the employees of the company, being workmen within the meaning of clause (s) of section 2 of the Industrial Disputes Act, 1947;

(b) "workmen's dues'', in relation to a company, means the aggregate of the following sums due from the company to its workmen, namely:—

  (i) all wages or salary including wages payable for time or piece work and salary earned wholly or in part by way of commission of any workman in respect of services rendered to the company and any compensation payable to any workman under any of the provisions of the Industrial Disputes Act, 1947;

  (ii) all accrued holiday remuneration becoming payable to any workman or, in the case of his death, to any other person in his right on the termination of his employment before or by the effect of the winding up order or resolution;

  (iii) unless the company is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another company or unless the company has, at the commencement of the winding up, under such a contract with insurers as is mentioned in section 14 of the Workmen's Compensation Act, 1923, rights capable of being transferred to and vested in the workmen, all amount 8 of 1923. due in respect of any compensation or liability for compensation under the said Act in respect of the death or disablement of any workman of the company;

  (iv) all sums due to any workman from the provident fund, the pension fund, the gratuity fund or any other fund for the welfare of the workmen, maintained by the company;

(c) "workmen's portion'', in relation to the security of any secured creditor of a company, means the amount which bears to the value of the security the same proportion as the amount of the workmen's dues bears to the aggregate of the amount of workmen's dues and the amount of the debts due to the secured creditors.

LIQUIDATORS' FINAL STATEMENT OF ACCOUNT

1 . Final Accounts: At the close of the winding up proceedings in a voluntary liquidation (or compulsory winding up by the Court), the Liquidators are required to place before the final meeting of Shareholders or, Creditors (or the Court, as the case may be) a Consolidated Account of amounts received and paid.

2. Name: This Statement submitted by the Liquidator is known as **"Liquidator's Statement of Account"** in a voluntary winding up. In case of a winding up by the Court, this Statement is known as, "Official Liquidator's Final Account".

3. Receipts & Payments Format: The above account is prepared in the following manner

Receipts	₹	**Payments**	₹
(a) Amount received from realization of assets (Assets are included in the prescribed order of liquidity). (b) In case of assets specifically charged in favour of Creditors e.g. Mortgage Loan on Land and Buildings, only the **surplus** from it, if any, is entered as "Surplus from Securities". (c) Calls in Arrears and Call Money due in order to ensure that the loss or surplus, if any, is equitably borne by all classes of Equity Shareholders. (d) Net Result of Trading Activity if any, upto the date of account, is entered on the Receipts Side, Profits being added and Losses being deducted. (e) Payments made to redeem securities & cost of execution, i.e. cost of collecting debts, are reduced from Total Receipts.		Payment are shown in the following order - (a) Legal Charges; (b) Liquidator's Remuneration; (c) Liquidation Expenses; (d) Debenture holders (including interest upto the date of winding up if the Company is insolvent and upto the date of payment if it is solvent); (e) Creditors; (f) Preferential Creditors (in actual practice, Preferential Creditors are paid before Debenture holders having a Floating Charge). Unsecured Creditors, Shareholders for dividends declared but not yet paid; (g) Preference Shareholders (including arrears of dividends on Cumulative Preference Shares upto the date of winding up.; and (h) Equity Shareholders.	

LIQUIDATOR'S FINAL STATEMENT OF ACCOUNT

Meaning of Liquidator's Final Statement of Account: Liquidator's Final Statement of Account is basically a summary of Cash Book for the period beginning with the date of commencement of winding up and ending with the date of completion of winding up. This statement shows the various sources from where he obtained the funds and the various uses to which he applied those funds.

Who is to prepare such Statement?

(a) In case of Compulsory Winding up	Official Liquidator has to prepare.
(b) In case of Voluntary Winding up	Liquidator has to prepare.

To whom such Statement has to be submitted

(a) In case of Compulsory Winding up	To the Court
(b) In case of Voluntary Winding up	To the Company

Who fixes the remuneration of liquidator?

(a) In case of Compulsory Winding up	Remuneration is fixed by the Court and the amount is payable to the Court since the Official Liquidator is a salaried employee of the government
(b) In case of Members' Voluntary Winding up	Members in their meeting
(c) In case of Creditors' Voluntary Winding up	Creditors in their meeting

4. Call Money and Extent of Liability:

(a) In case of Partly Paid Shares, the need for making a call should be examined.

(b) Firstly, Equity Shareholders should be called up to pay the necessary amount (not exceeding the amount of Uncalled Capital) if Creditors' claim / claims of Preference Shareholders cannot be satisfied with the amount available.

(c) Preference shareholders would be called upon to contribute (not exceeding the amount as yet uncalled on the shares) for paying off Creditors.

(d) Loss suffered by each class of shareholders, i.e. the amount that cannot be repaid, should be proportionate to the nominal value of the share.

5. Contributories:

According to Section 2(26) "Contributory" means a person liable to Contribute to the assets of the Company in the event of its being wound up, and includes a holder of fully paid up shares. In some of the specific cases, the contributories will be as under:

Case	Who is Contributory
(a) In case of Death of a member	Legal Representatives
(b) In case of Insolvent member	Assignees subject to their power of disclaimer
(c) In case of winding up of a body corporate which was a member	Liquidator subject to his power of disclaimer

What is the Nature of their liability? [Section]: After winding up, the liability of a contributory is ex-lege (legal) and not ex-contract (contractual). The liability of a contributory shall create a debt accruing due from him at the time when his liability commenced but payable only when the call is made on him by the liquidator.

What are the lists of Contributories? On Winding up, the liquidator prepares the following two lists:

1. List 'A' is the list of persons who are the members on the date of commencement of winding up.
2. List 'B' is the list of those persons who were the members during the 12 months preceding the date of commencement of winding up.

What is the nature of liability of List 'A' and List B' Contributories?: The liability of the List 'A' Contributories is primary and absolute where as the liability of List 'B' Contributories is secondary. In other words, List 'B' can be resorted to only when the List 'A' has been exhausted.

When does the liability of List B' Contributories arise? The liability of List B' Contributories arises only when the following 3 conditions are satisfied:

(a) if he had ceased to be a member during the 12 months preceding the date of Commencement of Winding up;

(b) if the debt/liability incurred upto the date of membership is still outstanding.

(c) if the present members are unable to pay the contribution required to be made by them.

What is the Actual Amount of Liability of List B' Contributories? The actual amount of liability of List 'B' Contributories is the least of the following 2 amounts:

(a) Creditors outstanding on date of ceasing to be member.

(b) Unpaid up amount on share (i.e., No. of shares held × Unpaid up amount per share).

Note: If there are more than one List 'B' Contributories then such Contributories shall be liable to pay the concerned Creditors in proportion to their No. of shares held.

Section – C

Note: Companies (Auditors Report) Order, 2003 is to be substituted by Companies (Auditor Report) Order, 2015.

SUBSECTION 12 OF SECTION 143

In section 143 of the Principal Act, for sub-section (12), the following sub-section shall be substituted, namely:

Notwithstanding anything contained in this section, if an auditor of a company in the course of the performance of his duties as auditor, has reason to believe that an offence of fraud involving such amount or amounts as may be prescribed, is being or has been committed in the company by its officers or employees. The auditor shall report the matter to the Central Government within such time and in such manner as may be prescribed.

Provided that in case of a fraud involving lesser than the specified amount, the auditor shall report the matter to the audit committee constituted under section 177 or to the Board in other cases within such time and in such manner as may be prescribed.

Provided further that the companies, whose auditors have reported frauds under this sub-section to the audit committee or the Board but not reported to the Central Government, shall disclose the details about such frauds in the Board's report in such manner as may be prescribed.

Study Note - 10

TYPE OF AUDIT

PROPRIETY AUDIT

A propriety audit is not just concerned with the truthfulness and fairness of the Financial Statements and books of accounts of the client, but also ensures that the transactions entered into by the client, business practices and activities undertaken are not against public interest. Its objective is to see that the business lives upto standards of proper conduct. Legal, economic and financial are all equally important aspects that require to be looked into during the course of the audit.

It is an essential element of a Government Audit. The Comptroller and Auditor General examines the propriety of all government expenditures to ensure that they have been incurred in the interest of the general public, and are not influenced by personal interests of the government authorities sanctioning it.

Section 143 of the Companies Act, 2013 requires the auditor to look into some specified matters to ensure that the Directors of the company do not engage in misappropriation and siphoning of funds.

Study Note – 11

AUDIT PLANNING, PROGRAMME AND PROCEDURES

REMOVED FROM THE STUDYMATERIAL

SA 310 on 'Knowledge of Business' issued by ICAI, establish standards on what is the knowledge of the business, why it is important to the auditor and to members of the audit staff working on an engagement, why it is relevant to all phases of an audit, and how the auditor obtains and uses this knowledge.

AUDIT RISK

In very broad terms, audit risk is the risk of a material misstatement of a financial statement item that is or should be included in the audited financial statements of an entity. In theory, audit risk ranges anywhere from zero, where there is complete certainty of no material misstatement, to one, where there is complete certainty of a material misstatement. In practice, however, audit risk is always greater than zero. There is always some risk of material misstatement as it is not possible, (except for the audit of the simplest of financial statements), due to the limitations inherent in both accounting and auditing, to be absolutely certain that a material misstatement will not exist.

i. "Audit risk" is the risk that the auditor gives an inappropriate audit opinion when the financial statements are materially misstated. Such misstatements can result from either fraud or error.

ii. Inherent risk – it is the susceptibility of a account balance or class of transaction to misstatements that could be material, either individually or when taken together with misstatements in other balance or classes, assuming that there were no internal controls.

iii. Control risk – it is the risk that misstatement, that could occur in an account balance or class of transactions and that could be material, either individually or when taken together with misstatements in other balances or classes, will not be prevented/detected/corrected on timely basis by the accounting and internal control systems.

Detection risk – it is the risk that an auditor's substantive procedures (the procedures designed to obtain evidence as to the completeness, accuracy and validity of the data produced by the accounting system) will not detect a misstatement that exists in account balance or class of transactions that could be material, either individually or when taken together with misstatements in other balances or classes.

Study Note - 12

INTERNAL CONTROL, INTERNAL CHECK AND INTERNAL AUDIT

2. **STANDARDS ON INTERNAL AUDIT (SIA)**

Internal Audit – India

i. Clause 49 of Listing Agreement - Responsibility of audit committee to review adequacy of internal audit function and internal audit reports.

ii. Section 138 of Companies Act, 2013 specify Such class or classes of companies as may be prescribed shall be required to appoint an internal auditor, who shall either be a chartered accountant or a cost accountant, or such other professional as may be decided by the Board to conduct internal audit of the functions and activities of the company. The Central Government may, by rules, prescribe the manner and the intervals in which the internal audit shall be conducted and reported to the Board.

iii. CARO 2015 requires the auditor to report that there is an adequate internal control system commensurate with the size of the company and the nature of its business, for the purchase of inventory and fixed assets and for the sale of goods and services. Whether there is a continuing failure to correct major weaknesses in internal control system.

iv. Section 465 of the Companies Act, 2013 requires that every Producer Company shall have internal audit of its accounts carried out by a chartered accountant, at such interval and in such manner as may be specified in articles.

v. The Securities and Exchange Board of India has mandated complete internal audit on a half-yearly basis for stock brokers/trading members/clearing members.

vi. IRDA (Investment) (Fourth Amendment) Regulations, 2008 has introduced requirements o quarterly internal audit for insurers.

vii. Companies going in for tapping the international capital market, especially, those seeking listing in US stock exchanges, NASDAQ, NYSE, etc., also need a strong internal audit function to meet the stringent corporate governance and internal control requirements of those stock exchanges. In this context, the US companies, having US public as investor also needs to comply with the requirements of Sections 302 and 404 of the Sarbanes Oxley Act of 2002.

Study Note - 15

THE COMPANY AUDITOR

CLASS OF COMPANIES

As per the Companies (Audit and Auditors) Amendment Rules 2015 for the purposes of sub-section (2) of section 139 of Companies Act, 2013, the class of companies shall mean the following classes of companies excluding one person companies and small companies:-

(a) all unlisted public companies having paid up share capital of rupees ten crore or more;

(b) all private limited companies having paid up share capital of rupees twenty crore or more;

(c) all companies having paid up share capital of below threshold limit mentioned in (a) and (b) above, but having public borrowings from financial institutions, banks or public deposits of rupees fifty crores or more.

DUTIES AND POWERS OF COMPANY'S AUDITORS IN CONNECTION WITH BRANCH AUDIT

Duties and powers of company's auditors in connection with branch audit - Duties and powers of company's auditor (main auditor) with reference audit of branch and branch auditor shall be as contained in section 143(1) to 143(4) of the 2013 Act and Rule 12(1) of Companies (Audit and Auditors) Amendment Rules, 2015. Thus, the company's auditor is responsible even if branch auditor is appointed.

Branch auditor's responsibility to report fraud - Responsibility to report fraud, as applicable to company's auditor applies to branch auditor.

RESPONSIBILITY AND RIGHTS OF COST AUDITOR

Responsibility, duties, rights and obligations of cost auditor are same as Financial Auditor as specified in Chapter X of the 2013 Act - Section 148(5) of the 2013 Act. Provisions relating to reporting fraud under section 143(12) of the 2013 Act are applicable to cost auditor also - section 143(14) of the 2013 Act.

Study Note - 16

THE COMPANY AUDIT

AUDIT OF DIVISIBLE PROFIT

Declaration of dividend [Section 123]

Final dividend is declared in the general meeting. Board of Directors have to recommend a dividend. Declaration of dividend is 'Ordinary Business" in general meeting.

No dividend shall be declared or paid by a company for any financial year except —

(a) out of the profits of the company for that year arrived at after providing for depreciation in accordance with the provisions of sub-section (2), or out of the profits of the company for any previous financial year or years arrived at after providing for depreciation in accordance with the provisions of that sub-section and remaining undistributed, or out of both; or

(b) out of money provided by the Central Government or a State Government for the payment of dividend by the company in pursuance of a guarantee given by that Government.

Provided that a company may, before the declaration of any dividend in any financial year, transfer such percentage of its profits for that financial year as it may consider appropriate to the reserves of the company.

Provided further that where, owing to inadequacy or absence of profits in any financial year, any company proposes to declare dividend out of the accumulated profits earned by it in previous years and transferred by the company to the reserves, such declaration of dividend shall not be made except in accordance with such rules as may be prescribed in this behalf.

Provided also that no dividend shall be declared or paid by a company from its reserves other than free reserves.

Provided also that no company shall declare dividend unless carried over previous losses and depreciation not provided in previous year or years are set off against profit of the company for the current year.

For the purposes of clause (a) of sub-section (1), depreciation shall be provided in accordance with the provisions of Schedule II.

Interim Dividend:

The Board of Directors of a company may declare interim dividend during any financial year out of the surplus in the profit and loss account and out of profits of the financial year in which such interim dividend is sought to be declared.

Declaration of interim dividend if company has incurred losses in current financial year:

In case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years.

Legal Provisions applicable to interim dividend:

The amount of the dividend, including interim dividend, shall be deposited in a scheduled bank in a separate account within five days from the date of declaration of such dividend.

Entitlement of Dividend:

No dividend shall be paid by a company in respect of any share therein except to the registered shareholder of such share or to his order or to his banker and shall not be payable except in cash.

Provided that nothing in this sub-section shall be deemed to prohibit the capitalisation of profits or reserves of a company for the purpose of issuing fully paid-up bonus shares or paying up any amount for the time being unpaid on any shares held by the members of the company.

Provided further that any dividend payable in cash may be paid by cheque or warrant or in any electronic mode to the shareholder entitled to the payment of the dividend.

Consequences on non-compliance:

A company which fails to comply with the provisions of sections 73 and 74 shall not, so long as such failure continues, declare any dividend on its equity shares.

Unpaid Dividend Account [Section 124]

Transfer of unpaid dividend to separate account:

Where a dividend has been declared by a company but has not been paid or claimed within thirty days from the date of the declaration to any shareholder entitled to the payment of the dividend, the company shall, within seven days from the date of expiry of the said period of thirty days, transfer the total amount of dividend which remains unpaid or unclaimed to a special account to be opened by the company in that behalf in any scheduled bank to be called the Unpaid Dividend Account.

Information about unpaid dividend on Company's website:

The company shall, within a period of ninety days of making any transfer of an amount under subsection (1) to the Unpaid Dividend Account, prepare a statement containing the names, their last known addresses and the unpaid dividend to be paid to each person and place it on the website of the company, if any, and also on any other website approved by the Central Government for this purpose, in such form, manner and other particulars as may be prescribed.

Effect of non-transfer:

If any default is made in transferring the total amount referred to in sub-section (1) or any part thereof to the Unpaid Dividend Account of the company, it shall pay, from the date of such default, interest on so much of the amount as has not been transferred to the said account, at the rate of twelve per cent. per annum and the interest accruing on such amount shall ensure to the benefit of the members of the company in proportion to the amount remaining unpaid to them.

Transfer of unclaimed dividend and also shares to Investor Protection Fund:

- Any money transferred to the Unpaid Dividend Account of a company in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the company along with interest accrued, if any, thereon to the Fund established under sub-section (1) of section 125 and the company shall send a statement in the prescribed form of the details of such transfer to the authority which administers the said Fund and that authority shall issue a receipt to the company as evidence of such transfer.
- All shares in respect of which dividend has not been paid or claimed for seven consecutive years or more under sun-section (5) shall also be transferred by the company in the name of Investor Education and Protection Fund along with a statement containing such details as may be prescribed.
- Provided that any claimant of shares transferred above shall be entitled to claim the transfer of shares from Investor Education and Protection Fund in accordance with such procedure and on submission of such documents as may be prescribed.
- If a company fails to comply with any of the requirements of this section, the company shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twentyfive lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

LOANS TO DIRECTORS [SECTION 185]

Restrictions on Loans and Gurantees to Directors etc. No company shall, directly or indirectly, advance any loan, including any loan represented by a book debt, to any of its directors or to any other person in whom the director is interested or give any guarantee or provide any security in connection with any loan taken by him or such other person:

Provided that nothing contained in this sub-section shall apply to —

(a) the giving of any loan to a managing or whole-time director —

(i) as a part of the conditions of service extended by the company to all its employees; or

(ii) pursuant to any scheme approved by the members by a special resolution; or

(b) a company which in the ordinary course of its business provides loans or gives guarantees or securities for the due repayment of any loan and in respect of such loans an interest is charged at a rate not less than the bank rate declared by the Reserve Bank of India.

(c) any loan made by a holding company to its wholly owned subsidiary company or any guarantee given or security provided by a holding company in respect of any loan made to its wholly owned subsidiary company; or

(d) any guarantee given or security provided by a holding company in respect of loan made by any bank or financial institution to its subsidiary company:

Provided that the loans made under clauses (c) and (d) are utilised by the subsidiary company for principal business activities.

Study Note – 17

AUDIT REPORT

CARO- COMPANIES (AUDITOR'S REPORT) ORDER, 2015

CARO – COMPANIES (AUDITOR'S REPORT) ORDER, 2015 issued by the Central Government as per the power granted under section 143(11) of the Companies Act, 2013.

According to 143, the auditor is required to report on certain matters only if he is not satisfied after his examination of the accounts but after this new order, the auditor has to make a statement on each of the specified matters likewise in case of Govt. companies, this order is in addition to the directions of the Comptroller and Auditor General in India.

This new order is applicable to every company except,

(a) Banking Company as defined u/s 5(c) of the Banking Regulation Act, 1949,

(b) Insurance Company as defined u/s 2(21) of the Companies Act, 1956, [Insurance Company has not been defined under Companies ACT, 2013].

(c) Company licensed to operate u/s 8 of the Companies Act, 2013 and

(d) Small Company, One Person Company and Private Limited Companies subject to the following condition

Aggregate of Paid Up Capital and Reserves should not exceed ₹ 50 Lakhs.

Loan outstanding from any Bank or Financial Institution should not exceed ₹ 25 Lakhs.

Turnover should not exceed ₹ 5 crores at any point of time during the financial year.

The order is applicable to foreign Companies incorporated outside India but having a place of business within India. The branches of the Companies liable to this order also come under the purview of this order.

The following matters are required to be dealt in the Auditor's Report:

1. **Fixed Assets:** Auditor should comment whether the company is maintaining proper records of fixed assets, the management verified the fixed assets frequently and the material discrepancies found were accounted properly, in the books of accounts.

2. **Inventory:** The auditor has to make following statements on verification and valuation of inventories.

   (a) Whether physical verification of Inventory has been conducted at reasonable intervals by the management.

   (b) Are the procedures of physical verification of inventories followed by the management reasonable and adequate in relation to the size of the company and the nature of its business? If not, the inadequacies in such procedures should be reported.

   (c) Whether the company is maintaining proper records of inventory and whether any material discrepancies have been noted on physical verification and if so, whether the same have been properly dealt with in the books of account.

3. **Loans:** In the case of loans revised, organized to firms etc. covered in the register maintained under Section 189 of the Companies Act, auditor has to make comments on the following :

   (a) Has the company granted any loans, secured or unsecured to companies, firms or other parties covered under the register maintained under Section 189 of the Companies Act.

   (b) Whether receipt of the principal amount and interest are also regular.

   (c) If over payment is more than one lakh, whether reasonable steps have been taken by the company for recovery of the principal and interest.

4. **Internal Control on Purchases of Assets and Sale of goods:** Is there an adequate internal control system commensurate with the size of the company and the nature of its business for the purchase of inventory and Fixed Assets, and for the sale of goods and services. Whether there is a continuing failure to correct major weaknesses in internal control system.

5. **Public Deposits:** In case the company has accepted deposits from the public whether the directions issued by the Reserve Bank of India and the provisions of Sections 73 to 76 or any other relevant provision of the Companies Act and the rules framed there under where applicable, have been complied with, if not, the nature of contraventions should be stated; if an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any Court or any other tribunal, whether the same has been complied with or not.

6. **Maintenance of Cost Records:** Where Maintenance of Cost Records has been specified by the Central Government under Section 148 of the Companies Act whether such accounts and records have been made and maintained.

7. **Deposit of Statutory Dues:** The Company Auditor has to report that –

   (a) Is the company regular in depositing undisputed statutory dues including Provident Fund, Employees State Insurance, Income Tax, Sales Tax, Wealth Tax, Service Tax, Custom Duty, Excise Duty, Value Added Tax, Cess and any other statutory dues with the appropriate authorities and if not, the extent of arrears of outstanding statutory dues as at the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated by the auditor.

   (b) In case dues of Income Tax, Sales Tax, Wealth Tax, Service Tax, Custom Duty, Excise Duty, Value Added Tax, Cess have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending may be mentioned, but he should, while reporting, remember that a mere representation to the department should not constitute a dispute.

   Whether the amount required to be transferred to investor education and protection fund in accordance with the relevant provisions of the Companies Act, 1956 (1 of 1956) and rules made thereunder has been transferred to such fund within time.

8. **Sickness:** Where in case of a company which has been registered for a period not less than 5 years, its accumulated losses at the end of the financial year are not less than 50% of its net worth and whether it has incurred cash losses in such financial year and in the financial year immediately preceding such financial year also.

9. **Default in Repayment of Dues:** Whether the company has defaulted in repayment of dues to a financial institution or bank or debenture holders? If yes, the period and amount of default to be reported.

10. **Guarantees for loan taken by others:** Whether the company has given any guarantee for loans taken by others from bank, or financial institutions, the terms and conditions whereof are prejudicial to the interest of the company.

11. **Application of Term Loans:** Whether the term loans were applied for the purpose for which the loans are obtained.

12. **Fraud:** Whether any fraud on or by the company, has been noticed or reported during the year, if yes, the nature and the amount involved is to be indicated.

Where in the auditor's report, the answer to any of the questions referred to above is unfovourable or qualified, the auditor's report shall also state the reasons for such unfavourable or qualified answer, as the case may be where the auditor is unable to express any opinion in answer to a particular question his report shall indicate such fact together with the reasons why it is not possible for him to give an answer to such question.

The order stipulates that if the auditor given negative qualified answer to any of the above questions on which a statement is required on his report, he should give the reasons for that and where he is unable to give any opinion he should indicate this fact with reasons. The unfavourable answers to any of the question does not mean that the opinion of auditor on the true and fairness qualified answer the auditor can give an unqualified audit report, if the qualified answer does not materially affect the financial position discussed in the Profit and Loss Account and for Balance Sheet. The Board of Directors is supposed to give comments, in its annual report, on the adverse statements made by the auditor under the order.

Study Note – 18

STANDARDS ON AUDITING (SA)

NEW/REVISED STANDARDS ISSUED UNDER THE CLARITY PROJECT

100-199	Introductory Matters
200-299	General Principles and Responsibilities: **SA 200 (Revised)** issued under the clarity project, "Overall objectives of the Independent Auditor and the conduct of an Audit in accordance with Standards on Auditing" **SA 210 (Revised)** under the clarity project, "agreeing the terms of Audit Engagements" **SA 220 (Revised)** issued under the clarity project, "Quality Control for an audit of Financial Statements" **SA 230 (Revised)** under the clarity project, "Audit Documentation" **SA 240 (Revised)** under the clarity project, "The Auditor's Responsibilities Relating to Fraud, in an Audit of Financial Statements" **SA 250 (Revised)** under the clarity project, "Consideration of Laws and Regulations in an Audit of Financial Statements" **SA 260 (Revised)** under the clarity project, "Communication with Those Charged with Governance" **SA 265** issued under the clarity project, "Communicating Deficiencies in Internal Control to Those Charged with Governance and Management" **SA 299 (AAS 12),** "Responsibility of Joint Auditors"
300-499	Risk Assessment and Response to Assessed Risks **SA 300 (Revised)** under the Clarity Project, "Planning an Audit of Financial Statements" **SA 315** under the Clarity Project, "Identifying and Assessing the Risks of Material Misstatement through Understanding the Entity and Its Environment" **SA 320 (Revised)** issued under the Clarity Project, "Materiality in Planning and Performing an Audit" **SA 330** under the Clarity Project, "The Auditor's Responses to Assessed Risks" **SA 402 (Revised)** issued under the Clarity Project, "Audit Considerations Relating to an Entity Using a Service Organisation" **SA 450** issued under the Clarity Project, "Evaluation of Misstatements Identified During the Audit"

500-599	**Audit Evidence** **SA 500 (Revised)** under the Clarity Project, "Audit Evidence" **SA 501 (Revised)** issued under the Clarity Project, "Audit Evidence—Specific Considerations for Selected Items" **SA 505 (Revised)** issued under the Clarity Project, "External Confirmations" **SA 510 (Revised)** under the Clarity Project, "Initial Audit Engagements—Opening Balances" **SA 520 (Revised)** issued under the Clarity Project, "Analytical Procedures" **SA 530 (Revised)** under the Clarity Project, "Audit Sampling" **SA 540 (Revised)** under the Clarity Project, "Auditing Accounting Estimates, Including Fair Value Accounting Estimates, and Related Disclosures" **SA 550 (Revised)** under the Clarity Project, "Related Parties" **SA 560 (Revised)** under the Clarity Project, "Subsequent Events" **SA 570 (Revised)** under the Clarity Project, "Going Concern" **SA 580 (Revised)** under the Clarity Project, "Written Representations"
600-699	Using Work of Others **SA 600 (AAS 10),** "Using the Work of Another Auditor" **SA 610 (Revised)** issued under the Clarity Project, "Using the Work of Internal Auditors" **SA 620 (Revised)** issued under the Clarity Project, "Using the Work of an Auditor's Expert"
700-799	Audit Conclusions and Reporting **SA 700 (Revised)** issued under the Clarity Project, "Forming an Opinion and Reporting on Financial Statements" **SA 705** issued under the Clarity Project, "Modifications to the Opinion in the Independent Auditor's Report" **SA 706** issued under the Clarity Project, "Emphasis of Matter Paragraphs and Other Matter Paragraphs in the Independent Auditor's Report" **SA 710 (Revised)** issued under the Clarity Project, "Comparative Information— Corresponding Figures and Comparative Financial Statements" **SA 720** under the Clarity Project, "The Auditor's Responsibility in Relation to Other Information in Documents Containing Audited Financial Statements"
800-899	Specialized Areas **SA 800** issued under the Clarity Project, "Audits of Financial Statements Prepared in Accordance With Special Purpose Frameworks" **SA 805** issued under the Clarity Project, "Special Considerations—Audits of Single Financial Statements and Specific Elements, Accounts or Items of a Financial Statement" **SA 810** issued under the Clarity Project, "Engagements To Report on Summary Financial Statements"
2000-2699	Standards on Review Engagements **SRE 2400 (Revised),** "Engagements to Review Financial Statements" **SRE 2410,** "Review of interim Financial Information Performed by the Independent Auditor of the Entity".
3000-3699	Assurance Engagement (SAE) **SAE 3400** "The Examination of Prospective Financial Information" **SAE 3402** "Assurance Reports on Controls At a Service Organisation"
4000-4699	Related Services (SRS) **SRS 4400** "Engagements to Perform Agreed Upon Procedures Regarding Financial Information" **SRS 4410** "Engagements to Compile Financial Information"

18.11.40 SAE 3400 – The Examination of Prospective Financial Information

1. In an engagement to examine prospective financial information, the auditor should obtain sufficient appropriate evidence as to whether:
   (a) Management's best-estimate assumptions on which the prospective financial information is based are not unreasonable and, in the case of hypothetical assumptions, such assumptions are consistent with the purpose of the information;
   (b) The prospective financial information is properly prepared on the basis of the assumptions;
   (c) The prospective financial information is properly presented and all material assumptions are adequately disclosed, including a clear indication as to whether they are best estimate assumptions or hypothetical assumptions
   (d) The prospective financial information is prepared on a consistent basis with historical financial statements, using appropriate accounting principles.

18.11.41 SAE 3402 – Assurance Reports on Controls At a Service Organisation

Scope of this SAE

1. This Standard on Assurance Engagements (SAE) deals with assurance engagements undertaken by a professional accountant in public practice to provide a report for use by user entities and their auditors on the controls at a service organization that provides a service to user entities that is likely to be relevant to user entities' internal control as it relates to financial reporting. It complements SA 402, in that reports prepared in accordance with this SAE are capable of providing appropriate evidence under SA 402.
2. The "Framework for Assurance Engagements" states that an assurance engagement may be a "reasonable assurance" engagement or a "limited assurance" engagement; that an assurance engagement may be either an "assertion-based" engagement or a "direct reporting" engagement; and, that the assurance conclusion for an assertion-based engagement can be worded either in terms of the responsible party's assertion or directly in terms of the subject matter and the criteria. This SAE only deals with assertion-based engagements that convey reasonable assurance, with the assurance conclusion worded directly in terms of the subject matter and the criteria.
3. This SAE applies only when the service organization is responsible for, or otherwise able to make an assertion about, the suitable design of controls. This SAE does not deal with assurance engagements:
   (a) To report only on whether controls at a service organization operated as described, or
   (b) To report only on controls at a service organization other than those related to a service that is likely to be relevant to user entities' internal control as it relates to financial reporting (for example, controls that affect user entities' production or quality control).
4. In addition to issuing an assurance report on controls, a service auditor may also be engaged to provide reports such as the following, which are not dealt with in this SAE:
   (a) A report on a user entity's transactions or balances maintained by a service organization; or
   (b) An agreed-upon procedures report on controls at a service organization.

Objectives

5. The objectives of the service auditor are:
   (a) To obtain reasonable assurance about whether, in all material respects, based on suitable criteria:
      (i) The service organization's description of its system fairly presents the system as designed and implemented throughout the specified period (or in the case of a type 1 report, as at a specified date);
      (ii) The controls related to the control objectives stated in the service organization's description of its system were suitably designed throughout the specified period (or in the case of a type 1 report, as at a specified date);
      (iii) Where included in the scope of the engagement, the controls operated effectively to provide reasonable assurance that the control objectives stated in the service organization's description of its system were achieved throughout the specified period.
   (b) To report on the matters in (a) above in accordance with the service auditor's findings

18.11.42 SRS 4400 – Engagements to Perform Agreed-upon Procedures regarding Financial Information

Objective of an Agreed – upon Procedures Engagement

4. The objective of an agreed-upon procedures engagement is for the auditor to carry out procedures of an audit nature to which the auditor and the entity and any appropriate third parties have agreed and to report on factual findings.
5. As the auditor simply provides a report of the factual findings of agreed-upon procedures, no assurance is expressed by him in his report. Instead, users of the report assess for themselves the procedures and the findings reported by the auditor and draw their own conclusions from the work done by the auditor.
6. The report is restricted to those parties that have agreed to the procedures to be performed since others, unaware of the reasons for the procedures, may misinterpret the results. However, it is possible in certain circumstances that the report of the engagement may not be restricted only to those parties that have agreed to the procedures to be performed, but made available to a wider range of entities or individuals, e.g., in case of government organisations.

18.11.43 SRS 4410 – Engagements to Compile Financial Information

Objective of a Compilation Engagement

The objective of a compilation engagement is for an accountant to use accounting expertise, as opposed to auditing expertise, to collect, classify and summarise financial information. This ordinarily entails reducing detailed data to a manageable and understandable form without the requirement to test the assertions underlying that information. The procedures employed are not designed and do not enable the accountant to express any assurance on the financial information. However, users of the compiled financial information derive some benefit as a result of the accountant's involvement because the service has been performed with professional competence and due care.

A compilation engagement would ordinarily include the preparation of financial statements (which may or may not be a complete set of financial statements) but may also include the collection, classification and summarisation of other financial information, for example, preparation of quarterly financial results, restatement of financial statements in accordance with a financial reporting framework other than in accordance with which the financial statements to be restated are already prepared and presented.