

CUSTOMS

- Note:**
- (a) "Customs Duty" means the customs duty levied under the Customs Act, 1962.
 - (b) "CVD" means the Additional Duty of Customs levied under sub-section (1) of section 3 of the Customs Tariff Act, 1975.
 - (c) "SAD" means the Special Additional Duty of Customs levied under sub-section (5) of section 3 of the Customs Tariff Act, 1975.
 - (d) "Export duty" means duty of customs leviable on goods specified in the Second Schedule to the Customs Tariff Act, 1975.
 - (e) Clause nos. in square brackets [] indicate the relevant clause of the Finance Bill, 2013.

Amendments carried out through the Finance Bill, 2013 come into effect on the date of its enactment unless otherwise specified.

AMENDMENTS IN THE CUSTOMS ACT, 1962:

- 1) Clause (n) of sub-section (2) of section 11 is being amended to include "designs and geographical indications" so as to provide for protection of these rights. *[Clause 54]*
- 2) Section 27 is being amended to provide that if the amount of refund claimed is less than rupees hundred, the same shall not be refunded. *[Clause 55]*
- 3) Section 28 is being amended to provide that show cause notice will not be served where the amount demanded is less than rupees one hundred. *[Clause 56]*
- 4) Section 28BA is being amended to provide for provisional attachment of property belonging to any person to whom notice under sub-section (4) of section 28 has been served. *[Clause 57]*
- 5) Clause (a) of section 28E is being substituted so as to include any new business of import or export proposed to be undertaken by the existing importer or exporter within the meaning of "activity". *[Clause 58]*
- 6) Section 29 is being amended to empower the Board to permit landing of vessels and aircrafts at any place other than customs port or customs airport. *[Clause 59]*
- 7) Section 30 is being amended to provide for electronic filing of import manifest and also to provide that the Commissioner of Customs may, in cases where it is not feasible to deliver the import manifest by presenting electronically, allow the same to be delivered in any other manner. *[Clause 60]*
- 8) Section 41 is being amended to provide for electronic filing of export manifest and also to provide that the Commissioner of Customs may, in cases where it is not feasible to deliver the export manifest by presenting electronically, allow the same to be delivered in any other manner. *[Clause 61]*
- 9) Sub-section (2) of section 47 is being amended to reduce the interest free period for payment of import duty from five days to two days. *[Clause 62]*
- 10) Section 49 is being amended to restrict the period of storage of imported goods, pending clearance, in a public or private warehouse to thirty days and to provide that the Commissioner of Customs may extend the period of storage for further period not exceeding thirty days at a time. *[Clause 63]*
- 11) Section 69 is being substituted to provide that any warehoused goods may be exported to a place outside India without payment of import duty if a shipping bill or a bill of export in prescribed form or label or declaration accompanying the goods as referred to in section 82 has been presented in respect of such goods. *[Clause 64]*
- 12) Under the existing sub-section (6) of section 104, all offences under the Act are bailable. Sub-section (6) is being substituted with sub-section (6) and (7). Sub-section (6) provides that the following specified offences punishable under section 135 shall be non-bailable, namely:-
 - (a) evasion or attempted evasion of duty exceeding Rs.50 lakh;
 - (b) prohibited goods notified under section 11 which are also notified under sub-clause (C) of clause (i) of sub-section (1) of section 135;
 - (c) import or export of any goods which have not been declared in accordance with the provisions of this Act and the market price of which exceeds Rs. 1 crore;
 - (d) Fraudulently availing of or attempt to avail of drawback or any exemption from duty provided under this Act, if the amount of drawback or exemption from duty exceeds Rs.50 lakh.

Sub-section (7) provides that all other offences except those specified in sub-section (6) shall be bailable. *[Clause 65]*

- 13) A proviso is being inserted in sub-section (2A) of section 129B to provide that in cases where the delay in disposing of the appeal is not attributable to the appellant, the Tribunal may extend the period of stay by a period not exceeding 185 days

subject to the condition that if the appeal is not disposed of within the total period of 365 days from the date of order, the stay order shall stand vacated. *[Clause 66]*

- 14) Section 129C is being amended to enhance the monetary limit of the Single Bench of the Tribunal to hear and dispose of appeals from Rs.10 lakh to Rs.50 lakh. *[Clause 67]*
- 15) In sub-clauses (B) and (D) of clause (i) of section 135(1), the threshold limit for punishment in an offence relating to evasion or attempted evasion of duty or fraudulently availing of or attempting to avail of drawback or any exemption from duty in connection with export of goods, has been increased from Rs.30 lakh to Rs.50 lakh. *[Clause 68]*
- 16) A new clause (d) is being inserted in section 142 to provide (i) for recovery of money due to the Central Government from any other person other than the defaulter after giving such other person a notice in writing, (ii) that the person to whom such notice has been issued shall be bound to comply, and (iii) that if the person to whom the notice is issued fails to comply, he shall be deemed to be a defaulter in respect of the amount specified in the notice. *[Clause 69]*
- 17) Section 143A is being omitted. *[Clause 70]*
- 18) Sub-section (3) of section 144 is being amended to remove the duty liability on any sample of goods which is consumed or destroyed during the course of testing or examination. *[Clause 71]*
- 19) Section 146 is being substituted to change the nomenclature of "customs house agents" to "customs brokers" considering the global practice and internationally accepted nomenclature. *[Clause 72]*
- 20) Section 146A is being amended so as to:
 - (a) substitute the phrase "customs house agent" with the phrase "customs broker";
 - (b) include any offence committed under the Finance Act, 1994 as a disqualification for person to act as an authorized representative in customs matters. *[Clause 73]*
- 21) Sub-section (3) of section 147 is being amended to expand the scope of the liability of agents of the owner, importer or exporter of any goods. *[Clause 74]*
- 22) Full exemption from export duty is being given retrospectively on flat rolled products of iron or non-alloy steel, plated or coated with zinc falling under headings 7210 and 7212 vide notification No. 27/2011-Customs, dated 01.03.2011 from 01.03.2011. *[Clause 75]*

AMENDMENTS IN THE SCHEDULES TO THE CUSTOMS TARIFF ACT, 1975:

- 1) The First Schedule is being amended to:
 - (a) change the present description of tariff item 03022400 and 03033400 to "Turbots (*Psetta maxima*)"
 - (b) omit the tariff item 1517 90 20 (Peanut butter).
 - (c) insert Supplementary Note in Chapter 48.
 - (d) enhance the tariff rate against items under heading 8703 from 100% to 125%.
 - (e) enhance the tariff rate against items under heading 8903 from 10% to 25%. *[Clause 76]*
- 2) The Second Schedule is being amended as follows:
 - (a) to substitute the entry in column (2) against Sl. No. 43, with the entry "7210, 7212", retrospectively with effect from 01.03.2011.
 - (b) Entry 9A is being inserted to prescribe a tariff rate of export duty of 20% on raw sugar, white or refined sugar under heading 1701. However, no export duty is proposed to be levied presently.
 - (c) Entries 23A and 23B are being inserted to prescribe a tariff rate of export duty of 30% on Bauxite (natural), not calcined and Bauxite (natural), calcined under heading tariff items 26060010 and 26060020 respectively. Effective rate is being prescribed at 10%
 - (d) Entries 24A and 24B are being inserted to prescribe a tariff rate of export duty of 30% on Ilmenite, unprocessed and Ilmenite, upgraded (beneficiated Ilmenite including Ilmenite ground) under heading tariff items 26140010 and 26140020 respectively. Effective rate is being prescribed on unprocessed Ilmenite at 10% and on upgraded Ilmenite at 5%.

The changes at para 1) and 2) (b), (c), (d) will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931. *[Clause 77]*

CUSTOMS

A. General

- 1) Baggage Rules are being amended to,-
 - (i) raise the duty free allowance in respect of jewellery for an Indian passenger who has been residing abroad for over one year or a person who is transferring his residence to India from Rs.10,000 to Rs.50,000 in case of a gentleman passenger and from Rs.20,000 to Rs.1,00,000 in case of a lady passenger.
 - (ii) raise the duty free allowance for crew member of vessel/aircraft from Rs.600 to Rs.1500.

B. Proposals involving changes in rates of duty**I. AGRICULTURE/AGRO PROCESSING/PLANTATION SECTOR:**

- 1) Basic customs duty on dehulled oat grain is being reduced from 30% to 15%.
- 2) Basic customs duty on hazel nuts is being reduced from 30% to 10%.
- 3) Export duty of 10% on de-oiled rice bran oil cake is being withdrawn.

II. AUTOMOBILES:

- 1) Basic customs duty on new passenger cars and other motor vehicles (high end cars) with CIF value more than US\$ 40,000 and/or engine capacity exceeding 3000cc for petrol run vehicles and exceeding 2500 cc for diesel run vehicles is being increased from 75% to 100%.
- 2) Basic customs duty on motor cycle with engine capacity of 800cc or more is being increased from 60% to 75%.

III. METALS:

- 1) Export duty is being levied on ilmenite unprocessed at 10% and on ilmenite, upgraded at 5%.
- 2) Export duty is being levied on bauxite at 10%.
- 3) Basic customs duty is being reduced from 10% to 5% on stainless steel wire cloth stripe and from 7.5% to 5% on wash coat for use in the manufacture of catalytic convertors and their parts.
- 4) Full exemption from export duty is being provided to galvanized steel sheets falling under certain sub-headings, retrospectively w.e.f. 01.03.2011.

IV. PRECIOUS METALS:

- 1) Basic customs duty is being reduced from 10% to 2% on pre-forms of precious and semi-precious stones.

V. CAPITAL GOODS/INFRASTRUCTURE:

- 1) Basic customs duty on steam coal is being increased from Nil to 2% and CVD from 1% to 2%.
- 2) Basic customs duty on bituminous coal is being reduced from 5% to 2% and CVD from 6% to 2%.
- 3) Basic customs duty is being reduced from 7.5% to 5% on 20 specified machinery for use in leather and footwear industry.

VI. AIRCRAFTS & SHIPS:

- 1) Basic Customs Duty on yachts and motor boats is being increased from 10% to 25%.
- 2) Time limit for consumption of imported goods by ship repair units is being extended from 3 months to 1 year.
- 3) Time period for consumption/installation of parts and testing equipments imported for maintenance, repair and overhaul (MRO) of aircrafts by units engaged in such activities is being extended from 3 months to 1 year.
- 4) Presently, the basic customs duty exemption is available to parts and testing equipments for maintenance, repair and overhaul of aircrafts. This exemption is now being extended to parts and testing equipments for maintenance, repair and overhaul of aircrafts and parts thereof.

VII. ENVIRONMENT PROTECTION:

- 1) Full exemption from basic customs duty is being provided to lithium ion automotive battery for manufacture of lithium ion battery packs for supply to the manufacturers of hybrid and electric vehicles.
- 2) Time period of exemption (Nil BCD, CVD of 6% and Nil SAD) for the specified parts of electric and hybrid vehicles is being extended by 2 more years up to 31st March, 2015.

VIII. TEXTILES:

- 1) Basic customs duty on raw silk (not thrown), of all grades is being increased from 5% to 15%.
- 2) Basic customs duty is being reduced from 7.5% to 5% on textile machinery & parts.

IX. ELECTRONICS/HARDWARE:

- 1) Basic customs duty on Set Top Boxes for TV is being increased from 5% to 10%.

X. MISCELLANEOUS:

- 1) Full exemption from basic customs duty and additional customs duty is being provided to trophy imported by National Sports Federation recognized by the Department of Sports and Youth Affairs or any Sports Body registered under Societies Registration Act, in connection with any international tournament held in India.
- 2) Withdrawal of exemption from education cess and secondary & higher education cess on aircraft and aircraft parts, soyabean oil, olive oil etc.

EXCISE

AMENDMENTS IN THE CENTRAL EXCISE ACT, 1944:

- 1) Section 9 provides that an offence case involving evasion in which the duty leviable exceeds thirty lakh rupees shall be punishable with a term of imprisonment extending to seven years with fine. This section is being amended so as to substitute the amount of thirty lakh rupees with fifty lakh rupees. *[Clause 78]*
- 2) Section 9A is being amended to make an offence cognizable and non-bailable where the duty liability exceeds Rs.50 lakh and punishable under clause (b) or clause (bbbb) of sub-section (1) of section 9. *[Clause 79]*
- 3) Section 11 is being amended so as to provide for (i) recovery of money due to the Government from any person other than from whom money is due after giving a proper notice, if that other person holds money for or on account of the first person; (ii) the other person to whom such notice has been issued is bound to comply and (iii) if the other person to whom the notice is served fails to comply, he shall face all the consequences under this Act. *[Clause 80]*
- 4) Section 11A is being amended to insert sub-section (7A) providing that 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. *[Clause 81]*
- 5) Reference to sub-section (1) in section 11DDA is being omitted. *[Clause 82]*
- 6) Section 20 is being amended so as to make the provisions applicable only to offence which is non-cognizable. *[Clause 83]*
- 7) Section 21 is being amended so as to make the provisions regarding release of arrested person on bail or personal bond applicable only to offence which is non-cognizable. *[Clause 84]*
- 8) Clause (a) of section 23A is being amended to expand the definition of the term "activity" to include any new business of production or manufacture proposed to be undertaken by the existing producer or manufacturer. *[Clause 85]*
- 9) The existing sub-section (2) of section 23C provides for the admissibility of application for advance ruling, inter alia, for credit of excise duty paid or deemed to have been paid. The scope of admissibility has been expanded to include credit of service tax paid or deemed to have been paid on input services. *[Clause 86]*
- 10) Reference to section 28-I in section 23F is being substituted with section 23D. *[Clause 87]*
- 11) A new proviso is being inserted in sub-section (2A) of section 35C so as to provide that in cases where delay in disposing of the appeal is not attributable to the appellant, the Tribunal may extend the period of stay by a period not exceeding 185 days subject to the condition that if the appeal is not disposed of within the total period of 365 days from the date of order, the stay shall stand vacated. *[Clause 88]*
- 12) Section 35D is being amended to enhance the monetary limit of the Single Bench of the Tribunal to hear and dispose of appeals from "ten lakh rupees" to "fifty lakh rupees". *[Clause 89]*
- 13) Section 37C is being amended to specify additional modes of delivery of specified documents i.e. by speed post with proof of delivery or through courier approved by the Central Board of Excise & Customs. *[Clause 90]*
- 14) Third Schedule is being amended to:
 - (a) insert S. No. 31A to include branded and generic Ayurvedic, Unani, Siddha, Homeopathic or Bio-chemic medicaments.
 - (b) substitute the present tariff item in S. No. 64 relating to pressure cooker with tariff item "7615 10 11"The changes at para 14) will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931. *[Clause 91]*

AMENDMENTS IN CENTRAL EXCISE TARIFF ACT, 1985:

- 1) First Schedule is being amended to:
 - (a) change the present description of tariff items 03022400 and 03033400 to "Turbots (*Psetta maxima*)".
 - (b) omit the tariff item 1517 90 20 (Peanut butter).
 - (c) substitute the existing tariff rates for various lengths of cigarettes and cigars of heading 2402 with the enhanced rates.
 - (d) enhance the tariff rate of specified tariff items of heading 8703 to 30%.The changes at para 1) will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931. *[Clause 92]*

Proposals involving changes in rates of duty

I. AGRICULTURE/AGRO PROCESSING/PLANTATION SECTOR:

- 1) Full exemption from excise duty is being provided on tapioca sago (sabudana) and tapioca starch manufactured and consumed captively in the manufacture of tapioca sago.
- 2) Full exemption from excise duty is being provided on henna powder or paste, not mixed with any other ingredient.

II. AUTOMOBILES:

- 1) Excise duty on SUVs is being increased from 27% to 30%.
- 2) Excise duty on truck chassis (8706 00 42) is being reduced from 14% to 13%.
- 3) Sports Utility Vehicles registered solely for use as taxis will not suffer additional excise duty consequent to the increase in excise duty on SUVs from 27% to 30%. Taxi refund in respect of SUVs is being adjusted accordingly.

III. METALS:

- 1) Excise duty of 4% is being levied on silver manufactured from zinc/lead smelting.
- 2) Compounded levy on stainless steel "Patta Patti" is being increased from Rs 30,000 per machine per month to Rs 40,000 per machine per month.
- 3) It is being clarified that the item "trimmed or untrimmed sheets or circles of copper intended for use in the manufacture of handicrafts or utensils" presently leviable to excise duty at Rs. 3500 per MT includes copper and copper alloys including brass.

IV. AIRCRAFTS & SHIPS:

- 1) Full exemption from excise duty is being provided on ships and other vessels. Consequently, there will be no CVD on these ships and vessels when imported.

V. TEXTILES:

- 1) Full exemption from excise duty is being provided on hand made carpets and carpets and other textile floor coverings of coir or jute, whether or not handmade.
- 2) 'Zero excise duty route', as existed prior to Budget 2011-12, is being restored in respect of branded readymade garments and made ups. In the case of cotton there will be zero duty at the fibre stage and, in the case of spun yarn of man made fibres, there will be a duty of 12% at the fibre stage. The 'Zero excise duty route' will be in addition to the CENVAT route now available.

VI. HEALTH:

- 1) Branded Ayurvedic medicaments and medicaments of Unani, Siddha, Homeopathic or bio-chemic system are being brought under MRP based assessment with abatement of 35% from MRP.

VII. ELECTRONICS/HARDWARE:

- 1) Excise duty on mobile phones of retail sale price exceeding Rs 2000/- is being increased from 1% to 6%.

VIII. MISCELLANEOUS:

- 1) Excise duty on cigarettes is being increased by about 18% on all cigarettes except cigarettes of length not exceeding 65 mm. Cigars and cigarillos duty is also being similarly raised.
- 2) Excise duty on marble tiles and slabs is being increased from Rs 30 per sq. mtr to Rs 60 per sq. mtr.
- 3) Full exemption from excise duty is being provided to intermediate goods manufactured and consumed captively by exempted units under Area Based Exemption Scheme in Himachal Pradesh and Uttarakhand.

SERVICE TAX

I. AMENDMENTS PROPOSED IN CHAPTER V OF THE FINANCE ACT, 1994:

Chapter V of the Finance Act, 1994, is being amended:

- (i) Definition of 'approved vocational education course' provided in section 65B (11) is being amended: firstly, the words, 'or State Council of Vocational Training' (SCVT) is being inserted in (i), and secondly, entry at item serial number (iii) is being omitted, for NSDC is not an affiliating body. After the proposed amendment takes effect, courses in 'designated trades' offered by Industrial Training Institute or Industrial Training Center affiliated to State Council of Vocational Training will also be covered by the negative list;
- (ii) Definition of "process amounting to manufacture or production of goods", in section 65B(40) being amended to include processes on which duties of excise are leviable under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955(16 of 1955);
- (iii) Explanation contained in Removal of Difficulty Order 2/2012 is being introduced as a separate section, namely 66BA. By the authority of this section, references to section 66 (charging section under the positive list approach) in Chapter V of the Finance Act, 1994 or any other act, will be construed as reference to section 66B (charging section under the negative list approach), with effect from the 1st day of July, 2012. Reference to section 66 appearing in the Finance (No.2) Act, 2004 and the Finance Act, 2007, in the context of education cesses will be read as 66B, in accordance with this new section;
- (iv) The word, 'seed' is being omitted from the expression 'seed testing' found in section 66D (d)(i). As a result, testing activities directly related to production of any agricultural produce like soil testing, animal feed testing, testing of samples from plants or animals, for pests and disease causing microbes will be covered by the negative list;
- (v) In section 73, a new sub-section (2A), similar to sub-section (9) of section 11A of Central Excise Act, 1944, is being inserted to harmonize the Central Excise and Service Tax law. As a result, if a show cause notice issued under proviso to sub-section (1) of section 73, is not found sustainable by an appellate authority or tribunal or court, the same will be deemed to be a notice issued for a period of eighteen months;
- (vi) Section 77, sub-section (1), clause (a), is being amended, in such manner that, maximum penalty imposable for failure to obtain registration will be ten thousand rupees only;
- (vii) 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;
- (viii) In section 86, sub-section (5), it is proposed to insert the expression "sub-section (1) or" appropriately. Therefore, in case of assessee appeal also, appellate tribunal can admit an appeal or permit the filing of memorandum of cross objections after the expiry of the relevant period;
- (ix) Section 89 is being amended: (i) in the case of an offence specified in clauses (a), (b) and (c) of sub-section (1) where the amount exceeds fifty lakh rupees, punishment shall be for a term which may extend to three years, but shall not, in any case, be less than six months; (ii) in the case of failure to pay service tax collected, to the credit of the Central Government within six months, an offence specified in section 89(1)(d), if such non-payment exceeds fifty lakh rupees, punishment shall be imprisonment for a term which may extend upto seven years but not less than six months; (iii) in the case of any other offence, the punishment shall be imprisonment for a term which may extend to one year;
- (x) Section 90 is being introduced to specify and differentiate cognizable offences from non-cognizable and bailable offences;
- (xi) Section 91 is being introduced to provide for power to arrest; Commissioner of Central Excise is empowered to authorize any officer of Central Excise not below the rank of Superintendent of Central Excise, to arrest a person for specified offences particularly nonpayment of collected service tax;
- (xii) Section 95 is being amended to empower the Central Government for removal of difficulty in respect of amendments carried out through the Finance Act, 2013.

II. RETROSPECTIVE EXEMPTION:

Retrospective exemption is being extended to the Indian Railways on the service tax leviable on various taxable services provided by them during the period prior to the 1st day of July 2012, to the extent show cause notices have been issued upto the 28th day of February 2013. Section 99 is being added for this purpose, in Chapter V of the Finance Act, 1994.

III. RATIONALIZATION OF ABATEMENT:

At present taxable portion for service tax purpose is prescribed as 25% uniformly for constructions where value of land is included in the amount charged from the service recipient. This is being rationalized. Accordingly, where the carpet area of

residential unit is upto 2000 square feet. or the amount charged is less than One Crore Rupees, in the case of 'construction of complex, building or civil structure, or a part thereof, intended for sale to a buyer, wholly or partly except where the entire consideration is received after issuance of completion certificate by the competent authority', taxable portion for service tax purpose will remain as 25%; in all other cases taxable portion for service tax purpose will be 30%. This change will come into effect from the 1st day of March, 2013.

IV. REVIEW OF EXEMPTIONS (to take effect from 1st day of April, 2013):

(A) The following exemptions are being rationalized:

- * Rationalization of exemption limit prescribed for charitable organizations, providing service towards any other object of general public utility. So far, the limit was 25 Lakh Rupees per annum. Now, they will be covered by the threshold exemption.
- * Exemption provided to restaurants other than those having (i) air-conditioning and (ii) license to serve liquor, is being rationalized; condition regarding 'license to serve liquor' is being omitted. Therefore, with effect from 1st April, 2013, service tax will be leviable on taxable service provided in restaurants with air-conditioning or central air heating in any part of the establishment at any time during the year.
- * Rationalization of exemption to transport of goods by road and rail/vessel.

(B) The following exemptions are being withdrawn:

- * Services provided by an educational institution by way of renting of immovable property.
- * Temporary transfer or permitting the use or enjoyment of a copyright relating to cinematographic films was fully exempt so far; now, this exemption will be restricted to exhibition of cinematograph films in a cinema hall or a cinema theatre.
- * Services by way of vehicle parking to general public.
- * Services provided to Government, a local authority or a governmental authority, by way of repair or maintenance of aircraft.

V. AMNESTY SCHEME FOR NON FILERS AND STOP FILERS :

To encourage voluntary compliance and broaden the tax base, it is proposed to provide one time amnesty by way of (i) waiver of interest and penalty; and (ii) immunity from prosecution, to the stop filers, non-filers or non-registrants or service providers (who have not disclosed true liability in the returns filed by them during the period from October 2007 to December 2012) who pay the "tax dues". Details of the scheme are available in Chapter VI of the Finance Bill, 2013. The scheme will be operational from the date on which the Finance Bill, 2013 receives the assent of the President.

VI. ADVANCE RULING:

Scope of advance ruling is being extended to cover resident public limited companies; a notification is being issued for this purpose, under section 96A (b) (iii) of the Finance Act, 1994.