

Key Central Excise Budget Proposals and Amendments



Right advice at right time...

2/22 Nityanand Nagar, Sahar Road, Andheri (East), Mumbai-400 069.

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Contents

1. Tariff Amendments under Central Excise	3
2. Recovery of duties	7
3. Penalties	8
4. Additional Duty (commonly known as Road Cess) on High Speed Diesel and Motor Spirit increased along with exemption being provided	11
5. Exemption from levy of Primary, Secondary and Higher Secondary Education Cess	12
6. Registration under Central Excise.....	12
7. Amendment to Central Excise Rules, 2002	16
8. Amendment to Central Excise (Removal of Goods at Concessional Rates of Duty for Manufacture of Excisable Goods) Rules, 2001	18
9. Residential Firm Eligible for application for Advance Ruling	18
10. Amendment to CENVAT Credit Rules, 2004	19
11. Disclaimer.....	22

1. Tariff Amendments under Central Excise

1.1 Duty Enhanced- Basic Rate/Ad valerom

Standard ad valorem rate of duty of excise is being increased from 12% to 12.5% for specified items.

Similarly, duty of excise is increased from 12% to 12.5% for goods covered by the Medicinal and Toilet Preparations Act, 1955 Specific rates of excise duty changed in certain items are as below:



Sr. No.	Particulars	Existing Rate	New Rate
1	Mineral waters, aerated waters containing sugar or other sweetening matter or flavored : BED (Basic Duty) AED (Additional Duty)	12% 5	18% Nil
2	Cigarettes and other products of tariff heading 2402	Various	% Increase by 17-30
3	Cut Tobacco	60 per Kg.	70 per Kg.
4	Goods falling under Tariff item 252329	900 per Tonne	1000 per Tonne
5	High Speed diesel under tariff item 2710 19 30	14%+Rs.5 per liter	14%+Rs.15 per liter
6	Sacks and bags falling under tariff 39232100 & 392329 which are used for : Industrial use : Other than industrial use	12% 12%	18% 15%

1.2 Reduction in Basic Excise Duty:

Sr. No.	Particulars	Existing Rate	New Rate
1	Specified Leather footwear falling under tariff 6403 and 6405 having RSP not exceeding Rs. 1000 per pair	12%	6%
2	Wafers falling under Heading 3818 used in manufacture of Integrated Circuit modules for smart cards, subject to actual user condition	12%	6%
3	All inputs for use in the manufacture of LED (Light Emitting Diode) driver or MCPCB (Metal Core Printed Circuit Board) for LED lights and fixtures or LED Lamps; subject to actual user condition	12%	6%
4	Chasis for ambulance	24%	12.5%

1.3 Concessional Rate available:

Sr. No.	Particulars	Cenvat availed		Cenvat not availed	
		Existing Rate	New Rate	Existing Rate	New Rate
1	Condensed milk put up in unit containers	NIL	6%	NIL	2%

2	Peanut Butter	NIL	6%	NIL	2%
3	Solar water heater system	12%	12.5%	12%	NIL
4	Tablet Computer	12%	12.5%	12%	2%
5	Mobile Handset	6%	12.5%	1%	1%



1.4 Goods fully exempted from Duty:

Sr. No.	Particulars
1	Agarbati produced and its intermediate consumption within the factory of Manufacture
2	Pig iron SG grade and ferro-silicon-magnesium used for manufacture of cast components of wind operated electricity generators falling under Tariff 39232100
3	Round copper wire and tin alloys for use in the manufacture of Photovoltaic (PV) ribbon for manufacture of Solar PV cells or modules, subject to certification by prescribed authority
4	Parts for use in the manufacture of solar water heater and system falling under 8419 or any other
5	Parts, components and accessories for use in the manufacture of tablet computer and their sub-parts
6	Specified raw materials used in pacemakers of chapter 90, subject to actual user condition

1.5 Other Tariff Amendments:

Sr. No.	Particulars
1	Education cess and levied @2% and Secondary and Higher Education cess levied @1% on all excisable goods
2	ED cess and HED cess levied on clean energy cess leviable on coal has been exempt. Said exemption notification is rescinded since, ED and HED cess are being exempted for all goods in general
3	No change in Education Cess and Secondary Higher Education cess which is levied on imported goods
4	Specified goods used in the manufacture of electrically operated vehicles were subject to concessional excise duty of 6%. The validity period of concession is being extended upto 31 st March, 2016
5	Specified items required in the manufacture of ultra-mega power project specified under list 10
6	All goods supplied against International Competitive Bidding.
7	Specified items required in the manufacture of ultra-mega power project specified under list 11

1.6 Change in RSP based valuation

Sr. No.	Particulars	Notified Abatement %	Remarks
1	Condensed milk put up in unit container	30	Newly notified under RSP levy
2	Goods falling under sub heading 2101 20, including iced tea	30	Newly notified under RSP levy

3	All goods falling under Tariff item 2202 except waters and aerated waters	35	RSP levy have been extended to all goods
4	All footwear products	25	Reduction in abatement amount from 35% to 25%
5	LED Lights or fixtures including LED lamps	35	Newly notified under RSP levy

2. Recovery of duties

Section 11A of Central Excise Act, 1994 (CEA) empowers Central excise officer to issue show-cause notice for recovery of duty which is not levied or not paid or short paid or erroneously refunded, within a time period specified.

2.1 Presently, if duty has not been paid due to various reasons involving fraud/collusion/willful misstatement etc. and identified by the CE Officer then show cause Notice can be issued for recovery of duty, interest u/s. 11A and penalty u/s.11AC shall be leviable. However, if details regarding such transactions are available then penalty would reduce by fifty percent vide Section 11A (5). Also, if duty liability along with applicable interest has been paid, before issuance of show-cause notice then penalty of maximum 25% of duty amount can be leviable vide section 11A(6).

These sub sections (5) and (6) are proposed to be omitted by Finance Bill, 2015. Hence, availability of transaction in records will have no bearing on reduction of penalty.

2.2 The demand for duty not-levied or short-levied or not-paid or short paid or erroneous refunded can be made within one year from the relevant date. Such a period of one year may get extended if such non-levy or short-levy or non-payment or short

payment is done with fraud or collusion or any willful mis-statement in order to evade duty.

- 2.3 Presently, relevant date for return filed on due date is the date of filling return. However, the cases where return filed belatedly aren't covered. Now, it has been proposed that date of filling of return would be the relevant date irrespective whether the return was filed on time or belatedly. Moreover, in respect of interest not paid on duties, the relevant date will be the date of payment of duty.
- 2.4 Self-assessed duty liability as per return which has not been discharged by the assessee can be recovered without issuance of show-cause notice as per the proposed introduction of a new sub-section (16).

3. Penalties

Presently, penalty is leviable only if nonpayment or short payment of duties is due to the reasons of fraud, collusion, misstatement or suppression of fact, or contravention with an intent to evade duty, i.e. *mens-rea* (presence of mala fide state of mind) is present.



Now, section 11AC has been amended so as to penalize even those assesseees who have failed to comply with the provisions of the Central Excise Act, 1944 without any intention to evade duty. However, the quantum of penalty has been bifurcated between cases involving *mens rea* and cases where the *mens rea* is not involved

Particulars	Proposed Penalty under Section 11AC (<i>Bona fide</i> cases)	Proposed Penalty under Section 11AC (<i>Mala fide</i> cases)
Cases covered	<p>Cases other than</p> <ul style="list-style-type: none"> • Fraud • Collusion • Wilful mis-statement • Suppression of facts • Contravention of provisions of the Act with intent to evade Excise Duty 	<p>Cases of</p> <ul style="list-style-type: none"> • Fraud • Collusion • Wilful mis-statement • Suppression of facts • Contravention of provisions of the Act with intent to evade Excise Duty
Non-levy/Non-payment/Short-levy/Short-payment/Erroneous refund of Excise Duty	Penalty not exceeding 10% of amount of duty or Rs. 5,000/- whichever is higher	<ul style="list-style-type: none"> • Penalty equal to 100% of Excise Duty • 50% reduction in penalty where details relating to transactions are available in specified records only for the period from 8th April, 2011 to the date of enactment of finance bill.
Excise Duty with	No penalty	Reduced penalty of 15% of

interest paid within 30 days from the date of service of SCN		Excise Duty provided such reduced penalty is also paid within 30 days from the date of service of SCN
Excise Duty with interest and reduced penalty as per these Sections is paid within 30 days from the date of receipt of Adjudication Order	25% of the penalty imposed	25% of Excise Duty
If Commissioner (Appeals), Appellate Tribunal or Court modifies Excise duty liability, penalty to be modified accordingly. Benefit of reduced penalties is proposed to be made available provided Excise duty, interest and reduced penalty is paid within 30 days from the date of receipt of the Order modifying Excise Duty liability.		



3.1 **Transitional Provisions**

- i. It has been provided that all cases where no show-cause notice is issued before the enactment of Finance Act, 2015 shall be governed by the provisions of section 11AC as amended.
- ii. Pending proceedings where show-cause notice has been issued but an order is not passed enactment of Finance Act shall be eligible for closure of proceedings if payment is made within 30days from the date of enactment of Finance Bill, 2015. An opportunity to avail benefit of waiver or reduction in penalty has been extended to existing on-going cases wherein SCN has been issued but Order is not passed.
- iii. All orders passed after enactment of Finance Act, 2015 shall also be eligible to get reduced penalty of 25%.

4. Additional Duty (commonly known as Road Cess) on High Speed Diesel and Motor Spirit increased along with exemption being provided

Additional Duty on High Speed Diesel and Motor Spirit has been levied under second Schedule to Finance Act, 1999 and Finance Act, 1998 at Rs. 2/litre Now, they are being increased to Rs. 8/litre and subsequently exemption has been provided making effective rate of additional duty at Rs. 6/litre. Such details are been provided as under:

	Motor Spirit	High Speed Diesel
Chapter Heading	2710	2710
Levy of Additional Duty	Section 111 of Finance Act, 1998	Section 133 of Finance Act, 1999
Additional Duty upto 28.02.2015	Rs. 2/litre	Rs. 2/litre
Additional Duty w.e.f 01.03.2015	Rs. 8/litre	Rs. 8/litre
Effective Rate	Rs. 6/litre	Rs. 6/litre
Notification No.	10/2015	11/2015

(Notification 10/2015-CE and Notification 11/2015-CE dated 1st March, 2015 w.e.f 1st March, 2015)

5. Exemption from levy of Primary, Secondary and Higher Secondary Education Cess

Education Cess and Secondary and Higher Education Cess has been levied vide Finance Act, 2004 on the aggregate of all duties of excise at the rate of 2% and 1% respectively is now made exempt with effect from 1st March, 2015.

(Notification 14/2015 and 15/2015 –CE both dated 1st March, 2015 w.e.f 1st March, 2015)

6. Registration under Central Excise

Notification No. 35/2001-CE (NT) provides for procedures as well as formats required for registration under Central Excise. This Notification has been amended in the following ways:

6.1 Online filling of application: It has been provided that application for registration or de-registration is made compulsory through online procedure at website www.aces.gov.in



6.2 Compulsory PAN based Registration:

- i. Applicants other than Government Departments intending for registering themselves under Central Excise shall compulsorily have their Permanent Account Number (PAN) failing which No registration Certificate shall be issued.
- ii. Existing temporary registrants other than Government Department shall apply for PAN based registration within 3 months failing which their temporary registration shall stand cancelled. Extension for time limit of 3 months can be provided by the jurisdictional authority for one month on the basis of reasons specified by the applicant. If the assessee makes application beyond 1 month then an opportunity of being heard shall be provided thereafter the jurisdictional authority shall pass an appropriate order.

6.3 **Compulsory Details Required**

- i. Applicant shall mandatorily provide its mobile number and e-mail id in the application form for communication with the department. Also, existing registrants who have not provided its communication details shall submit amended application within 3 months



- ii. Requirement of Business Transaction Numbers:

Business Transaction Numbers obtained from other Governments or agencies are to be filled in the application form if they are already issued or the certificate should be amended after procuring such numbers. Certain examples of Business Transaction Numbers are been provided such as Customs Registration No (BIN No), Import Export Code (IEC) Number, State Sales Tax /(VAT) Number, Central Sales Tax Number, Company Index Number (CIN), Service Tax Registration Number. Existing registrants are required to amend its application accordingly within 3 months

6.4 **Registration Certificate within 2 days:**

It has been provided that post verification of documents and premise the Registration Certificate shall be issued by the DC/AC within 2 days instead of 7 days of receipt of duly completed online application form.

6.5 **Online Registration Certificate:**

Registration Certificate which is issued online shall be an adequate proof of registration. Applicants are now not required to take signature of issuing authority on the said Registration Certificate

6.6 Submission of Documents:

The applicant shall tender self attested copies of the following documents at the time of verification of the premises:

- Plan of the factory premises;
- Copy of the PAN Card of the proprietor or the legal entity registered;
- Photograph and Proof of the identity of the applicant;
- Documents to establish possession of the premises to be registered;
- Bank account details;
- Memorandum or Articles of Association and List of Directors; and
- Authorization by the Board of Directors or Partners or Proprietor for filing the application by a third party.

6.7 Physical Verification:

- i. The authorised officer has been made responsible to verify the premises physically within 7 days from the date of receipt of application through online. If any error is found by the concerned authority or certain clarifications are required, the applicant shall rectify the same within 15 days from the date of intimation failing which registration shall stand cancelled. Also, the assessee would be given an opportunity to present his case against the cancellation and if the reasons provided are reasonable, the officer shall not cancel the registration
- ii. If during physical verification it is found that the premise is non-existent, the registration shall stand cancelled. The applicant would also be provided an opportunity of being heard.

6.8 Transfer of Business or Acquisition of Factory:

Just like earlier provisions where a registered person transfers its business, the transferee shall obtain a fresh registration. Also, if an applicant has acquired a factory from Bank or a Financial Institution, he shall apply for fresh registration.

6.9 Change in Constitution:

Earlier change in constitution only required an intimation to the jurisdictional department however now also change in Constitution shall not require a new Registration Certificate unless and until such change does not affect its PAN. However, such change in the Constitution shall be intimated to the Jurisdictional Officer within 30 days by way of amendment in the registration details. Any change in the Constitution leading to change in PAN shall require a fresh Registration Certificate

6.10 De-registration within 30 days:

Earlier, if a registered person ceases to carry on the business he/she may de-register himself by physically submitting a declaration along with the Registration Certificate. However, now only filling of such application is the required online. If there are no dues pending against the person, the application for de-registration shall be approved within 30 days from the date of filling online declaration which shall be accordingly be communicated to the assessee.

6.11 Cancellation of Registration:

Earlier revocation/suspension of Registration could be done only if the holder of such certificate or any person in his employment, is found to have committed breach of any of the provisions of the Act or the rules made thereunder or has been convicted of an offence under **section 161**, read with **section 109** or with **section 116** of the Indian Penal Code (45 of 1860). However, now the Registration of an assessee may get cancelled due to the following reasons:

- where on verification,
- the premises proposed to be registered is found to be non-existent;
- where the assessee does not respond to request for rectification of error
- noticed during the verification of the premises within fifteen days of intimation;
- where there is substantial mis-declaration in the application form; and

- where the factory has closed and there are no dues pending against the assessee

The assessee shall also be provided a reasonable opportunity of being heard against the proposed cancellation by the AC/DC.

The above Notification shall come into effect from 1st March, 2015

(Notification 7/2015-CE (NT) dated 1st March, 2015 w.e.f 1st March, 2015)

7. Amendment to Central Excise Rules, 2002

7.1 Records can be maintained in electronic form:

Rule 10 of the Central Excise Rules, 2002 provides for maintenance of daily stock account by every assessee having description of goods manufactured, opening balance, quantity produced or manufactured, inventory of goods, quantity removed, assessable value, the amount of duty payable and particulars regarding amount of duty actually paid. Also, first page and the last page of each such account book shall be duly authenticated by the producer or the manufacturer or his authorised agent. Now, assessee can be maintained its records in the electronic form provided that every page of the record shall be authenticated by a means of digital signature. CBEC shall also specify conditions, safeguards and procedures to be followed by the assessee who wishes to preserve digitally signed records through notification.

7.2 Invoice can be signed digitally:

Sub-rule (8) has been inserted under Rule 11 which lays down that invoice issued by a manufacturer under Rule 11 can be authenticated by means of a digital signature. However, if the duplicate invoice meant for transporter is digitally signed, then the hard copy of the duplicate invoice should be self-attested by the manufacturer. Also, the Board may, by notification, specify the



conditions, safeguards and procedure to be followed by an assessee using digitally signed invoice.

It has also been provided that for the purposes of rule 11 and this rule, the expressions, "authenticate", "digital signature" and "electronic form" shall have the respective meanings as assigned to them in the Information Technology Act, 2000.

7.3 Late filling Fees:

If an assessee fails to submit any return or Annual Financial Information Statement or Annual Installed Capacity Statement referred to in Rule 12 within the prescribed time then penalty of Rs. 100 per day subject to a maximum of twenty thousand rupees for the period of delay in submission of each such return or statement shall be levied.

Similar late fees has also been prescribed for the delay in filing returns required to be filed by 100% EOUs under Rule 17(3)

7.4 Power to impose restriction extended to registered importers:

Rule 12CCC of Central Excise Rules, 2002 empowers the Central Government to specify the restrictions if there is evasion of duty or to prevent evasion of duty. However, the rule provided that such measures could be imposed for manufacturer, first stage and second stage dealer or an exporter. Now, such restrictions can also be provided by the Central Government for registered importer.

Notification 16/2014 had been issued in this regard where nature of transactions has been specified on removal of goods, Cenvat Credit, etc. This notification has also been amended to include registered importer in its coverage.

7.5 Applicability of Rules to the Importer:

- i. Rule 22 specifying the details to be furnished and audit of assessee are now been made applicable to importer who issues an invoice on which CENVAT credit can be taken also.

- ii. Rule 25 of Cenvat Credit Rules, 2002 which prescribes the reasons whereby goods can be confiscated and penalty can be levied. It has been amended to include importers in its gamut.
- iii. Importers who are issuing invoices needs to prepare invoices as per Rule 11 of Central Excise Rules, 2002

(Notification 8/2015-CE (NT) dated 1st March, 2015 w.e.f 1st March, 2015)

8. Amendment to Central Excise (Removal of Goods at Concessional Rates of Duty for Manufacture of Excisable Goods) Rules, 2001

Central Excise (Removal of Goods at Concessional Rates of Duty for Manufacture of Excisable Goods) Rules, 2001 allows Manufacturer to receive goods for specified use at concessional rate of duty. Earlier, to avail the exemption a general bond with surety or security was to be submitted. Now, submission of letter of undertaking is also allowed in case of specified Manufacturers.

(Notification 9/2015-CE(NT) dated 1st March, 2015 w.e.f 1st March, 2015)

9. Residential Firm Eligible for application for Advance Ruling

Section 23A of Central Excise Act, 1944 provides for the meaning of an applicant for the purpose of filling advance ruling application. The term "applicant" means a non-resident or resident, Indian or foreign company setting up joint venture in India.

Now the addition to the term applicant has been made and now a sole proprietorship firm or an individual carrying on business, partnership firm etc. are also included in the said term.

(Notification 11/2015-CE (NT) dated 1st March, 2015 w.e.f 1st March, 2015)

10. Amendment to CENVAT Credit Rules, 2004

- **Following amendments would be effective from 1st March, 2015:**
 - Time limit for availment CENVAT Credit on inputs and input services has been increased from 6 months to 1 year¹ from the date of issuance of Cenvatable document.
 - Now, CENVAT Credit on inputs and capital goods is available to a job worker if goods are directly sent to job worker on the direction of manufacturer or service provider².
 - The benefit of availment of CENVAT Credit on inputs as such or after being partially processed by a job worker is extended to include all subsequent job workers in a chain.
 - The benefit of availment of CENVAT Credit on capital goods is available provided capital goods are sent “as such” to the job worker. The time lag allowed for to and fro of capital goods is increased to 2 years as against 180 days for non-reversal of CENVAT Credit.
 - Henceforth, inputs and capital goods may be received at any place by manufacturer or a service provider.
 - In case of export of goods or services, refund of CENVAT Credit is available subject to conditions vide Rule 5 of CENVAT Credit Rules, 2004. Now, the said Rule is amended to include the meaning of Export Goods as under:

¹ Rule 4 (1) (ii) and 6th Proviso to Rule 4 (7) of CENVAT Credit Rules, 2004

² Rule 4 (1) (i) and 4 (2) (a) of CENVAT Credit Rules, 2004

“export goods” means any goods which are to be taken out of India to a place outside India.”³

- Till now, definition of exempted goods⁴ and final products⁵ included only “excisable goods”. Therefore, CENVAT Credit was not allowed on inputs or input services used in or in relation to manufacture of exempted excisable goods⁶. However, now for the limited purpose of Rule 6 of CENVAT Credit Rules, exempted goods would include even non-excisable goods i.e. to say CENVAT Credit shall not be taken on input or input services used for manufacture of non-excisable goods⁷.
- Rule 12AAA of CENVAT Credit Rules, 2004 relating to restrictions to prevent misuse of provisions of Cenvat Credit is made applicable to importers as well.
- Till now, CENVAT Credit was recovered provided CENVAT Credit is availed as well as utilised wrongly⁸. However, now SCN may be issued for recovery of CENVAT Credit availed wrongly though not utilized.
- **Following amendment to be effective from 1st April, 2015:**
 - In case of Partial RCM, CENVAT Credit is available on input services only when value of input services as well as Service tax is paid. Now, CENVAT Credit, in respect of Service tax payable by service recipient, is available on payment of

³ Clause (1A) to Explanation I of Rule 5 of CENVAT Credit Rules, 2004

⁴ Rule 2 (d) of CENVAT Credit Rules, 2004

⁵ Rule 2 (h) of CENVAT Credit Rules, 2004

⁶ Rule 6 (1) of CENVAT Credit Rules, 2004

⁷ Explanations 1 and 2 of Rule 6 of CENVAT Credit Rules, 2004

⁸ Rule 14 of CENVAT Credit Rules, 2004

Union Budget 2015-2016

Service tax and the same is delinked with payment for services made to service provider⁹.

(Notification 6/2015-CE (NT) dated 1st March, 2015)



⁹ 1st, 2nd and 3rd Provisos substituted vide 1st and 2nd Provisos to Rule 4 (7) of CENVAT Credit Rules, 2004

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2/22 Nityanand Nagar, Sahar Road, Andheri (East), Mumbai-400 069.
6-A, Ranjit Studio Compound, DSP Road, Dadar (East), Mumbai-400 014.



+91 22 2684 0208



info@gscintime.com

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