



भारत सरकार
Government of India
वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Department of Revenue
सीमा शुल्क आयुक्त (निवारक) का कार्यालय
Office of the Commissioner of Customs (Preventive)
पूर्वोत्तर क्षेत्र
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PUBLIC NOTICE No.02/2011
Dated, Shillong the 28th February 2011

Trade and all concerned are informed that the Union Finance Minister has introduced the Finance Bill, 2011 in Lok Sabha today, i.e., 28th February, 2011. Changes in Customs law and rates of duty have been proposed through the Finance Bill, 2011 (clauses 35 to 58 for customs). In order to prescribe effective rates of duty and to carry out changes in the Rules made under the respective Acts, the following notifications have been issued:

CUSTOMS:	Notification Nos.	Date
Tariff	No. 13/2011-Customs to No. 27 /2011 -Customs	1 st March, 2011
Non-Tariff	No. 15/201 I-Customs(NT) to No. 18/2011-Customs	1 st March, 2011

Unless otherwise stated, all changes in rates of duty take effect from the midnight of 28th February/1st March, 2011. A declaration has been made under the Provisional Collection of Taxes Act, 1931 in respect of clauses 57(a)(i), 57 (b) and 70(a)(i) of the Finance Bill, 2011 so that changes proposed therein take effect from the midnight of 28th February/1st March, 2011. The remaining legislative changes would come into effect only upon the enactment of the Finance Bill, 2010. Retrospective amendments in the provisions of law or notifications issued under the respective Acts shall have the force of law only upon the enactment of the Finance Bill, 2011 but with effect from the date indicated in the relevant clause or Schedule. These dates may be carefully noted.

The important changes in respect of Customs duty are discussed below.

CUSTOMS

Rate structure:

1. There is no change in the peak rate of basic customs duty of 10%. The existing rates of 2%, 2.5% and 3% are being fused into a single rate of 2.5%. Consequently, all items that hitherto attracted basic customs duty of 2% or 3% would now be chargeable to 2.5%.

Aircraft:

2.1 Full exemption from import duty (basic, CVD and special CVD) was hitherto available to import of aircraft by non-scheduled operators whether for passenger services or chartered services. This exemption was subjected to certain conditions including the condition that the aircraft should be used exclusively for charter or passenger services. The exemption from basic customs duty has been withdrawn on such imports and a basic duty of 2.5% has been imposed.

The exemptions from CVD and special CVD have been retained. The conditions of the exemption have also been amended so as to allow the aircraft to be used interchangeably between passenger and charter services in consonance with the Civil Aviation Requirements.

2.2 Exemption from education cess and secondary and higher education cess presently available to aircrafts is being withdrawn.

IT Software

3. With effect from 21.12.2010 packaged or canned software falling under chapter 85 has been notified under section 4A of the Central Excise Act. Accordingly, the value of such software for the purposes of charging CVD is required to be determined on the basis of the retail sale price (RSP) affixed on the package under the Standards of Weights and Measures Act, 1976. It has been represented by the trade that in certain situations packaged software is not required to bear the RSP when imported and difficulties are being experienced in the assessment of such software to CVD. In order to resolve the issue, packaged software which is not required to bear RSP is being exempted from so much of the additional duty of customs as is equivalent to the duty payable on the portion of the value which represents the consideration paid or payable for transfer of the right of its use. Such software would therefore be required to pay CVD only on that portion of value representing the value of the medium on which it is recorded alongwith freight and insurance. The exemption is subject to the fulfillment of certain conditions. A parallel exemption is also being provided from central excise duty in respect of IT software manufactured domestically.

Postal Imports:

4. Description of heading 9804 in the First Schedule is being amended to cover all dutiable items intended for personal use, imported by post or air and to prescribe a tariff rate of 35% for tariff items under the heading. However, the effective rate of duty for goods imported for personal use by post or air is being maintained at 10% in respect of imports which are exempted from any prohibition under the Foreign Trade (Development and Regulation) Act, 1992 through a notification. This would obviate the need for resorting to merit assessment of goods when they are imported by this mode and the value exceeds the limits prescribed under the FT(D & R) Act. Fourth Schedule of the and clause 57 (a)(i) of the Finance Bill, 2011 may be seen.

Export Duty:

5.1 The Second Schedule to the Customs Tariff Act is being recast so as to align the entries with the Harmonized System of Nomenclature (HSN) and introduce a new entry for de-oiled rice bran cake. Clause 57(b) read with the Sixth Schedule of the Finance Bill, 2011 may be referred to. The effective rates of export duty on all items other than iron ores lumps, fines and pellets; and de-oiled rice bran cake are being maintained through notification no. 27/2011-Customs dated 1st March, 2011.

5.2 The export duty on iron ore lumps and fines has been enhanced from 15% and 5% respectively to a uniform rate of 20%. Full exemption from export duty has been provided to iron ore pellets.

5.3 Export duty has been imposed at the rate of 10% on de-oiled rice bran cake with immediate effect.

Relief Measures:

6.1 Exemptions/ concessions have been provided to a number of items with a view to remove anomalies in the duty structure and enable domestic value addition/ production. The details of these changes are available in the relevant notifications as well as the Explanatory Notes. These may kindly be referred to.

6.2 Full exemption from import duty is available to works of art imported for exhibition in a public museum or national institution. The scope of this exemption is being expanded to include imports made for exhibition of works of art in private galleries that allow unrestricted access to general public, subject to the fulfillment of certain conditions.

6.3 In order to resolve ongoing disputes, certain clarificatory amendments have been made in exemption notifications/entries. Specifications have been prescribed for coking coal which is fully exempt from customs duty under S. No. 68 of notification No. 21/2002 dated 1st March, 2002 so that it may be distinguished from non-coking coal which attracts a duty of 5%. Similarly, an Explanation has been added to the entry at S. Nos 344 and 345 of the same notification to define a 'Completely Knocked Down' (CKD) unit of a vehicle to exclude a unit containing a pre-assembled engine, gearbox or transmission mechanism as well as a body assembly on which a sub-assembly of assembled engine, gearbox or transmission mechanism is installed. The Explanation to Notification No. 14/2004-Customs dated 8th January, 2004 has been amended to clarify that a water supply project includes water pumping station and water storage facility. A similar amendment has been carried out in entry 26A of Notification No. 42/1996- Customs dated the 23rd July, 1997.

6.4 - As a trade facilitation measure, it has been decided to reduce the security amount to be tendered at the time of registration of a contract under Project Import Regulations to 2% of the contract value with a ceiling of Rs.1 crore to be taken in the form of bank guarantee. It has also been decided that the bank guarantee would not be required to be renewed if the finalization is not completed within six months of the submission of the necessary documentation by the importer. Instructions contained in letter of even file number dated 1st March, 2011 may kindly be seen.

Legislative Amendments:

7.1 One of the highlights of the provisions of the Finance Bill, 2011 is the introduction of self-assessment in the Customs Act, 1962 both for imported goods and export goods. This would replace the existing legal requirement of assessment of every bill of entry or shipping bill by the Customs Officer. As you are aware, after the implementation of EDI and risk management system, the practice in most customs formations has been to carry out assessment on selected bills of entry based on risk parameters and to allow the balance to be facilitated. While aligning the legal provisions with the current practice, the proposed amendments would move the Customs administration further along the path of trust based compliance management. They would provide a basis for progressive reduction in the levels of Customs interdiction in clearance of import/export cargo leading to significant enhancement in facilitation for compliant trade. This would release resources for more incisive verification and audit of consignments that involve a high degree of risk enabling the department to strike an optimal balance between the concerns of trade facilitation on the one hand and enforcement on the other. For this purpose, the important amendments proposed in the provisions of the Customs Act are as under:

- (i) The definition of assessment in section 2 is being amended to include 'self-assessment'.
- (ii) Section 17 which deals with assessment of duty has been recast to provide legal backing for self-assessment by the importer or exporter. It has also been provided that the customs officer may verify the assessment and have the goods tested or examined for this purpose. An obligation is also being cast on the importer or exporter to furnish any documents or information that may be required for such verification. Where it is found that the self-assessment is not in order, the customs officer is required to reassess the bill of entry and to issue a speaking order for the same unless the importer agrees with the reassessment. Barring cases where a speaking order is issued on reassessment, powers have also been assigned to customs officers to conduct audit either in their own office or at the premises of importer or exporter.
- (iii) Consequential amendments are being proposed in section 18 relating to provisional assessment. It is being provided that the importer may make a request for assessment of goods by the officer when he is not in a position to

self-assess. The provisions of section 19 are also being amended to prescribe that the finalization of provisional assessment may be carried out by the proper officer. Other consequential amendments include amendments in section 46 and 50 to make the electronic filing of bills of entry/shipping bills the norm. Power is also being conferred on the Commissioner of Customs to permit filing in any other manner when electronic filing is infeasible. Section 157 is being amended to empower the Board to issue regulations for specifying the manner of conducting audit. These provisions would come into effect on the date of enactment of Finance Bill, 2011.

7.2 Sub-section (1) of section 27 is being substituted so as to enhance the time limit for claiming refund of duty and interest from six months to one year for all categories of importers. This would unify the provisions with regard to raising of demands and claiming of refund.

7.3 As in the case of Central Excise, Section 28 is being substituted so as to make the provisions relating to recovery of duty not levied or short levied or erroneously refunded more coherent and clear. There is no change in the content of this provision

7.4 Section 28AA and 28AB are being substituted with a revised section 28AA so as to make the provisions relating to interest more coherent and clear. It is being provided that interest would be payable from the first day of the month succeeding the month in which the duty ought to have been paid or erroneously refunded. Pending enactment of the Finance Bill, 2011, notifications revising the rate of interest to 18% per annum has been issued under the existing provisions.

7.5 Section 110A is being amended to empower the adjudicating authority to allow release of seized goods instead of Commissioner of Customs.

7.6 Section 124 is being amended so as to provide for issuance of a show cause notice with prior approval of an officer not below the rank of an Assistant Commissioner of Customs as against Deputy Commissioner presently.

7.7 Section 131D is being inserted to empower the Board to issue instructions relating to non-filing of appeal in certain cases in line with National Litigation Policy retrospectively with effect from 20.10.2010.

7.8 A new section 142A is being inserted so as to create first charge on the property of the defaulter for recovery of the customs dues from such defaulter subject to the provisions of section 529A of the Companies Act, the Recovery of Debt due to Bank and Financial Institution Act, 1993 and Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

7.9 Section 150 is being amended so as to provide that the balance of sale proceeds of unclaimed cargo sold in auction shall be paid to the Government if they cannot be paid to the owner within six months.

7.10 Special provision is being made vide clause 54 of the Finance Bill, 2011 read with the Third Schedule to retrospectively provide a concessional basic customs duty of 30% to fresh garlic imported by National Consumer Cooperative Federation and Madhya Pradesh State Cooperative Marketing Federation under import licenses issued by the Central Government and cleared after 15.1.2003. This provision would come into force on the date of enactment of the Finance Bill, 2011.

7.11 Special provision is being made vide clause 58 of the Finance Bill, 2011 read with the Seventh Schedule to impose definitive safeguard duty retrospectively on imports of caustic soda lye imported into India during the period from 04.12.2009 to 03.03.2010. This would validate the imposition of provisional safeguard duty on this product during the same period. This provision would come into force on the enactment of the Finance Bill.

7.12 Notification Nos.92/2004-Customs dated 10th September, 2004, 41/2005-Customs dated 9th May, 2004, 90/2006-Customs dated 1st September, 2006, 64/2008-Customs dated 9th May, 2008 and 136/2008-Customs dated 24th December, 2008 have been retrospectively amended (in the case of first four w.e.f 1st April, 2008; and the remaining ones from the date of their issuance). Clause 53 read with Second Schedule of the Finance Bill refers. The implication of these amendments is that benefit of reward schemes such as the Served from India Scheme, Focus Market Scheme, Focus Product Scheme etc. would be available towards fulfillment of export obligation under EPCG Scheme. This would also come into force on the enactment of the Finance Bill.

7.13 Notification No. 16/2011-Customs (N.T) dated 1st March, 2011 has been issued under section 11 of the Customs Act to restrict imports of acetate tow and filter rods except when they are used for manufacture of filter rods and filter cigarettes respectively.

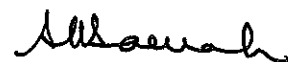
8. Amendments in the Customs Tariff Act, 1975

a. Section 3 is being amended to substitute the reference to Standards of Weight & Measures Act, 1976 with Legal Metrology Act, 2009 with effect from 1.3.2011 as has been repealed by the latter. This change would be effective from the date of enactment of the Finance Bill, 2011.

b. The First Schedule is being amended to include editorial changes in the Harmonized System of Nomenclature (HSN) in certain chapters, which would be effective from 01.01.2012.

These provisions would come into effect on the date of enactment of Finance Bill, 2011.

9. Copies of Finance Bill, 2010, Finance Minister's Budget Speech, Explanatory Memorandum to the Bill, relevant notifications and Explanatory Notes etc. can be downloaded directly from www.indiabudget.nic.in as well as www.cbec.gov.in.



[S.R. BARUAH]
Commissioner

C.No. VIII(48)01/CUS/TECH/2011/ 3rd 110-31(A)

Dated: 28 FEB 2011

Copy to:

1. The Chief Commissioner, Customs & Central Excise, Shillong
2. The Commissioner, Central Excise, Dibrugarh/Guwahati/Shillong
3. The Joint Director, DGFT, R.G. Baruah Road, Guwahati – 781 024
4. The Commissioner & Secretary, Commerce and Trade, Government of Meghalaya, Shillong
5. The Commissioner & Secretary, Commerce and Trade, Government of Assam, Dispur, Guwahati
6. The Commissioner & Secretary, Commerce and Trade, Government of Manipur, Imphal
7. The Commissioner & Secretary, Commerce and Trade, Government of Mizoram, Aizawl
8. The Commissioner & Secretary, Commerce and Trade, Government of Tripura, Agartala
9. The Commissioner & Secretary, Commerce and Trade, Government of Nagaland, Kohima
10. The Commissioner & Secretary, Commerce and Trade, Government of Arunachal Pradesh, Itanagar
11. The Deputy/Assistant Commissioner, Customs Division, Agartala/Aizawl/Dhubri/Dimapur/Guwahati/Imphal/Karimganj/Shillong with a request to circulate the Public Notice among all the Export/Importer Associations, Customs House Agents under their jurisdiction.
12. The Superintendent, Computer Cell, Customs Hqrs., Shillong with a request to upload this Public Notice on the Departmental website.
13. Guard File.



[A.M. PAUL]
Superintendent (Tech)