



UNION BUDGET 2006-2007

An Analysis of Indirect Tax Proposal

BT ASSOCIATES

Chartered Accountants

**3B Lalbazar Street, SIR RNM House
Room No. 15, Basement, Kolkata – 700 001**

CONTENTS

Chapter I

Amendment under Service Tax :

I.	Service Tax rate increased from 10% to 12% (Effective from date when the finance bill receive the ascent of the President of India)	-
II.	Service Tax net widened – 15 New Services introduced (Effective from date to be notified)	4
III.	Scope of Existing Services enlarged (Effective from date to be notified)	8
IV.	Abatement form value of taxable service for specified services (Effective from 01-03-2006)	10
V.	Analysis of withdrawal of various exemption notifications (Effective from 01-03-2006)	12
VI.	Key Legislative Changes (Effective from date when the finance bill receive the ascent of the President of India)	13
VII.	Other Amendments including Procedural amendments	15

Chapter II

Amendment under Customs :

I.	Changes in Rate of Customs Duty (Effective from 01-03-2006)	17
II.	Provisions regarding relinquishment of title changed (Effective from date when the finance bill receive the ascent of the President of India)	20
III.	Scope of project import benefit widened (Effective from date when the finance bill receive the ascent of the President of India)	20
IV.	Withdrawal of certain Exemption/Concessions (Effective from 01-03-2006)	21

V. Calculation of Export Obligation under EPCG Scheme clarified (<i>effective from 01-03-2006</i>) :	21
VI. Retrospective amendment made to allow imports made under DEPB Scheme during 01-10-2005 to 03-10-2005 (<i>effective from 01-03-2006</i>) :	21

Chapter III

Amendment under Central Excise :

I. Changes in Rate of Central Excise Duty - Major Highlights (<i>Effective from 01-03-2006</i>) :	22
II. Key Legislative Changes (<i>Effective from date when the finance bill receive the ascent of the President of India</i>)	25
III. Amendments pertaining to Small Scale Industries (<i>Effective from 01-03-2006</i>) :	26
IV. Amendments in relation to MRP based valuation (<i>Effective from 01-03-2006</i>) :	26
V. Duty rate reduced for clearance to DTA by EOU, STP, EHTP (<i>Effective from 01-03-2006</i>) :	27



Helping Clients Keep More of what they Earn

Chapter I Amendment under Service Tax

II. SERVICE TAX NET WIDENED-15 NEW SERVICES INTRODUCED (Effective from date to be notified)

New Service	Coverage		Our Comments
	Who	What	
Share Registrar Services Section 65(89c) & 65(105)(zzzi)	Registrar to an issue	Services in relation to the sale or purchase of securities	The cost of public offers by companies will increase.
Share Transfer Agent's Services Section 65(95a) & 65(zzzj)	Share Transfer Agent	Services in relation to transfer or redemption of securities or incidental activities	The transaction cost in the purchase and sale of securities will increase.
Automated Teller Machines (ATMs) Section 65(9a), 65(9b) & 65(105)(zzzk)	By any Person	Services in relation to the setting-up and operation of ATMs	<ul style="list-style-type: none"> All activities including outsourced services like site selection, acquisition, financing etc. are included. Some of these services would have already been included in other entries. Rent for site appears not to be included.
Recovery Agent's Services Section 65(105)(zzzl)	By any Person	Services in relation to recovery of sums due to banks, NBFCs, body corporates or firms	Recovery services rendered to individuals is not covered
Sale of space or time for Advertisement Section 65(105)(zzzm)	By any person	Services in relation to : <ul style="list-style-type: none"> providing space or time for display, advertising, showcasing in video & television programmes, or motion pictures or music albums or on billboards, public places, buildings, conveyances, cell phones, automated teller machines, internet. 	<ul style="list-style-type: none"> Some of the services specifically mentioned under this service are being already taxed under "Advertising Services" Print media like newspapers & books are excluded



Helping Clients Keep More of what they Earn

New Service	Coverage		Our Comments
	Who	What	
<p>Sponsorship Services Section 65(99a) & 65(105)(zzzn)</p>	<p>By any person</p>	<ul style="list-style-type: none"> • selling of time slots on radio or television by a person other than a broadcasting agency • Aerial advertising <p>Services in relation to sponsorship of events to any body corporate or firm.</p>	<ul style="list-style-type: none"> • Sales of time slots by broadcasting agencies is excluded from this entry but covered under "Broadcasting Services" • Sponsorship of sports events is excluded. • Displaying the sponsoring company's logo or trading name, giving sponsor exclusive or priority booking rights, sponsoring prizes or trophies are included. • Financial or other support in form of donation or gift are excluded.
<p>Air Transport Services Section 65(3b), 65(56a) & 65(105)(zzzo)</p>	<p>Aircraft Operator</p>	<p>Services in relation to air transport for international travel other than economy class</p>	<p>This new entry taxes the aircraft operator and the tax will be charged on the full fare, despite the fact that the Air Travel Agent has also charged Service Tax on the fare.</p>
<p>Transport of Goods in Containers by Rail Services Section 65(105)(zzzp)</p>	<p>Any person other than Government Railways</p>	<p>Services in relation to transport of goods in containers by rail.</p>	<p>Government has recently allowed private parties to operate the container business through rail. The transport charges on container movement through rail would attract service tax.</p>



Helping Clients Keep More of what they Earn

New Service	Coverage		Our Comments
	Who	What	
<p>Business Support Services Section 65(104c) & 65(105)(zzzq)</p>	<p>By any Person</p>	<p>Services in relation to support services of business or commerce and includes :</p> <ul style="list-style-type: none"> • evaluation of prospective customers • telemarketing • processing of purchase orders and fulfillment services • information and tracking of delivery schedules • managing distribution and logistics • customer relationship management services • accounting and processing of transactions • operational assistance for marketing • formulation of customer service and pricing policies • infrastructural support services and • other transaction processing. 	<p>Activities covered under clause (vii) of “Business Auxiliary Services” had been restricted last year to include services which were incidental or auxiliary to the first six sub-clauses. Now these services have been specifically taxed under an independent entry to avoid confusion as to the taxability under of “Business Auxiliary Services”.</p>
<p>Auctioneer’s Services Section 65(105)(zzzr) & 65(7a)</p>	<p>By any person</p>	<p>Services in relation to auction of property both movable or immovable and tangible or intangible</p>	<ul style="list-style-type: none"> • Auctions under Court Orders and Government auctions are not covered. • Services in relation to auction of property like providing a facility, advertising or illustrative services, pre-auction price estimates, short term storage service, repair or restoration service shall also be included.



Helping Clients Keep More of what they Earn

New Service	Coverage		Our Comments
	Who	What	
Public Relations Service Section 65(105)(zzzs) & 65(86c)	By any Person	Services in relation to managing the public relations of a person	Public relations have been defined to include <ul style="list-style-type: none"> • strategic counseling based on industry, media and perception research • corporate image management • media relations, media training • press release, press conference • financial public relations • brand support, brand launch • retail support and promotions • events and communications and • crisis communications.
Ship Management services Section 65(105)(zzzt) & 65(96a)	By any Person	Services in relation to Management of a ship under a contract or agreement	Section 65(96a) defines ship management services to include whole range of services.
Internet Telephony service Section 65(105)(zzzu) & 65(57a)	By any person	Services in relation to internet telephony	There was a confusion whether internet telephony was covered under the category of "Online information and data base access and or retrieval services". A specific entry has been introduced for taxing the said service.
Transport of person by cruise ship Section 65(105) (zzzv)	By any person	Services in relation to transport of such person embarking from any port or other port in India by a cruise ship	Services provided by cruise ships for travel originating from a port / destination in India are taxable. Ship or vessel used for private purposes or of fifteen net tonnage or less are excluded.



Helping Clients Keep More of what they Earn

New Service	Coverage		Our Comments
	Who	What	
Credit card, debit card, charge card or other payment card related services Section 65(105)(zzzw) & 65(33a)	By any person	Services in relation to credit card, debit card, charge card or other payment card service and other incidental services related thereto.	Credit card services were earlier included under Banking and Other Financial Services. Now a separate entry with an expanded scope which includes debit cards and other forms of charge cards are brought in.

III. SCOPE OF EXISTING SERVICES ENLARGED *(Effective from date when the finance bill receive the ascent of the President of India)*

- It has been proposed to replace the term ‘commercial concern’ occurring in 17 taxable services with the term ‘person’. This amendment has been proposed to settle controversy relating to applicability of such services to an “individuals” not having a commercial establishments.
- Various amendments have been proposed to expand the scope of existing taxable services. An analysis of such extended scope as well as existing scope of various taxable is being made hereunder :

Taxable Service	Present Scope	Proposed Scope	Our Comments
Banking and Other Financial Services [Section 65(12)]	Eight specified services are liable	<ul style="list-style-type: none"> • Transfer of money including telegraphic transfer, mail transfer and electronic transfer are covered. • Services provided as a Banker to an issue as defined under section 65(9c). • Credit Card Services omitted and a new specific category of taxable service introduced. 	<ul style="list-style-type: none"> • All Remittances of money, through the banking channels are now covered. • Services in relation to Public issues are now comprehensively taxed. Now Bankers and Registrar’s services have been taxed.



Helping Clients Keep More of what they Earn

Taxable Service	Present Scope	Proposed Scope	Our Comments
Management Consultant's Services [Section 65(65)]	Included advise, consultancy, technical assistance relating to conceptualising, devising, development, modification, rectification or upgradation of any working system of any organization.	Definition to provide wide coverage and includes advise, consultancy, technical assistance in relation to management in Finance, HR, Marketing, Production, logistic procurement, information technology resources or similar area of management.	Greater definition of the coverage in specified terms rather than under the previous open-ended language.
General Insurance Services, Insurance Auxiliary Services and Life Insurance Services [Section 65(58), 65 (55) & 65 (61)]	Services provided by an Insurer to a Policy holder were covered.	Services provided by a Re-insurer are proposed to be covered.	Re-insurance services, which were rendered to insurers and not to insured, are also covered. Insurers will however be able to take CENVAT Credit on these services.
Maintenance or Repair Services [Section 65(64)]	Maintenance or repair of goods, equipments or immovable properties covered.	Management of both moveable and immovable properties are being proposed.	By including 'management' of goods, equipments and immovable properties, all kinds of operations and maintenance contracts become specifically taxable.
Consulting Engineer's Services [Section 65(31)]	Only Engineering Firms were covered	Scope expanded to cover Body Corporates or any other firm.	Thus, various interpretation made by Courts and Tribunals addressed.



Helping Clients Keep More of what they Earn

Taxable Service	Present Scope	Proposed Scope	Our Comments
Business Auxiliary Services [Section 65(19)]	Information technology services are outside the purview of Business Auxiliary services, which also includes developing or maintaining of computer software, or Computerised data processing.	Maintaining of Computer Software and Computerised data processing are being proposed to be excluded from the definition of Information technology services and hence such services shall become taxable under the purview of Business Auxiliary services.	Software Management Services, all BPO services have been brought under the Service Tax net.
Erection, commissioning or installation service [Section 65(39a)]	Definition included only plant, machinery and equipment	Scope expanded to cover structures whether prefabricated or otherwise	The amendment may have wide implications, since service tax shall be attracted on prefabricated structures.

IV. ABATEMENT FORM VALUE OF TAXABLE SERVICE FOR SPECIFIED SERVICES
(Effective from 01-03-2006)

Vide Notification no. 1/2006-ST dated 01-03-2006 various Exemption Notifications issued in the past in relation to abatement from value of taxable service have been consolidated into a single notification. The exemption is available subject to condition that no CENVAT Credit has been availed either on Inputs or Capital goods or Input Services used in providing such services and /or no benefit has been taken under Notification no. 12/2003 dated. 20-06-2003 (which relates to exclusion of value of goods and materials). Various abatements available in summarized form are being produced hereunder :

Sl. No.	Taxable Service	% of value on which Service Tax is payable	Conditions to be followed for claiming such abatement
1	Mandap Keepers services Section 65(105)(m)	60%	<ul style="list-style-type: none"> Service provided by Mandap Keeper including hotels. Should also provide catering services. Invoice specifically mentions that the charges are inclusive of catering services.



Helping Clients Keep More of what they Earn

Sl. No.	Taxable Service	% of value on which Service Tax is payable	Conditions to be followed for claiming such abatement
2	Tour Operators services Section 65(105)(n)	40%	<ul style="list-style-type: none"> Package Tours and Services. Invoice specifically mentions that the charges are inclusive of tour costs or otherwise.
		10%	<ul style="list-style-type: none"> Services provided for arranging and booking accommodation costs. Tour operator specifically showing on invoice about his service charges for tour. No abatement from value of taxable service is available.
3	Rent a Cab Service Section 65(105)(o)	40%	<ul style="list-style-type: none"> No condition specified.
4	Convention Services Section 65(105)(zc)	60%	<ul style="list-style-type: none"> Should also provide catering services. Invoice specifically mentions that the charges are inclusive of catering services.
5	Erection Commissioning & Installation Services Section 65(105)(zcd)	33%	<ul style="list-style-type: none"> This exemption is optional. The value of plant, machinery should be included in the gross amount. No specific condition as regards value of plant, Machinery etc to be shown separately on invoice has been made.
6	Transportation of goods by Road services Section 65(105)(zcp)	25%	<ul style="list-style-type: none"> No condition specified.
7	Outdoor Catering services Section 65(105)(zct)	50%	<ul style="list-style-type: none"> Should also provide food. Invoice specifically mentions that the charges are inclusive of supply of food.



Helping Clients Keep More of what they Earn

Sl. No.	Taxable Service	% of value on which Service Tax is payable	Conditions to be followed for claiming such abatement
8	Commercial or Industrial Construction Services Section 65(105)(zzq)	33%	<ul style="list-style-type: none"> The gross amount charged shall include value of goods and materials supplied or provided or used. No specific disclosure of same on invoice is required. Exemption is not applicable where taxable service only includes completion or finishing services in relation to building or civil structure. The completion or finishing services has been defined to mean glazing, plastering, painting, floor and wall tiling, wall covering and well papering, wood and metal joinery and carpentry, fencing and railing, construction of swimming pools, acoustic applications or fittings and other similar services. However, aforesaid completion and finishing services forming part of construction service as a whole shall be eligible for such exemption.
9	Pandal or Shamiana Contractor Services Section 65(105)(zzw)	70%	<ul style="list-style-type: none"> Should also provide catering services. Invoice specifically mentions that the charges are inclusive of catering services.
10	Construction of Complex Services Section 65(105)(zzzh)	33%	<ul style="list-style-type: none"> All the 3 conditions are exactly similar to that being provided as regards Commercial or Industrial Construction Services as referred in Sl no. 8 here-in-above.

V. ANALYSIS OF WITHDRAWAL OF VARIOUS EXEMPTION NOTIFICATIONS *(Effective from 01-03-2006)* :

Vide Notification No. 2/2006-ST dated 01-03-2006 various exemption notification has been withdrawn. A brief analysis of same is being provided hereunder :



Helping Clients Keep More of what they Earn

- Hitherto vide Notification No.59/98-ST dated 16-10-1998 specified services like Accounting & Auditing, specific Certifications provided by a practicing Chartered Accountant, a practicing Company Secretary or a practicing cost accountant was taxable. Other services provided by such professionals were exempt from taxable services. The said notification has been withdrawn with effect from 01-03-2006. Under the circumstances **all the Services provided by practicing Chartered Accountant, a practicing Company Secretary or a practicing cost accountant** shall attract Service tax at the rate of 10.2% from 01-03-2006.
- Hitherto vide Notification No. 8/2003-ST dated 20-06-2003 services provided by Call Centre and Medical Transcription Centre were exempted. The said notification has withdrawn with effect from 01-03-2006. Under the circumstances, Services provided by Call Centre and Medical Transcription Centre would attract service tax @ 10.2% from 01-03-2006.
- Hitherto vide Notification No. 16/2004-ST dated 10-09-2004 Service provided by a management consultant in respect of Enterprise Resource Planning Software System (ERP) in connection with management of any organization was exempt. The said notification has withdrawn with effect from 01-03-2006. Under the circumstances, Services provided by a management consultant in respect of ERP would attract service tax @ 10.2% from 01-03-2006.
- Vide Notification No. 3/2006-ST dated 01-03-2006 exemption hither to available to “premium received from re-insurance both domestic and overseas” and “premium for all business booked outside India” in relation to Insurance has been withdrawn effective from 01-03-2006.
- Hitherto taxable Service provided by outdoor caterer on Railway train was exempt. Moreover, outdoor caterer located within premises of academic institution or medical establishment and providing catering service within such premises was also exempt. With effect from 01-03-2006 such exemptions have been withdrawn.

VI. KEY LEGISLATIVE CHANGES *(Effective from the date when the finance bill receive the ascent of the President of India :*

- **Taxable Services provided outside India to an Indian Recipient continued although under different set of provisions :**

Hitherto taxable Services provided outside India received by a recipient having place of business, fixed establishment, permanent address or usual place of residence in India was deemed to be taxable under service tax net in terms of deeming provisions provided vide explanation to Section 65(105) of the Finance Act 1994. It is proposed to omit such explanation and put the similar set of provisions in Section 66A with certain other clarifications.



Helping Clients Keep More of what they Earn

- **New Provisions for Valuation of Taxable Services :**

New set of Provisions dealing with valuation of taxable service under Section 67 have been proposed. Major highlight of proposed provision are as under :

- a) Where consideration for the taxable services is in terms of money, then the “gross amount charged”
- b) Where the consideration for the taxable services is not wholly or partly consisting of money, then “be such amount in money, with the addition of Service Tax charged is equivalent to the consideration”.
- c) Where the consideration is not ascertainable, then the value would be determined as per prescribed manner.

A New valuation rules for determine value of taxable service in Certain situation shall be notified shortly.

- **Immunity from penalty on voluntary payment :**

Section 73(1A) is being proposed to provide immunity from penalty. As per the proposed provision a person who has been served with a Notice for short payment of tax by reason of fraud, collusion or willful misstatement may pay the Service Tax in full, interest payable thereon and penalty equivalent to 25% of the Service Tax amount within 30 days of the receipt of Notice. On payment of such amount, the proceedings initiated against such person shall be deemed to be concluded.

This provision is similar to the provisions of Section 114A of the Customs Act, 1962 and Section 11AC of the Excise Act, 1944. However, under the Customs Act or Excise Act, the immunity is granted on the payment of duty, interest and 25% penalty as per the order passed by the Authority. Whereas, under Service Tax, immunity is granted on payment of tax, interest and 25% of tax as penalty on issuance of Notice i.e. even before adjudication. The provisions of Settlement Commission are still not made applicable to Service Tax proceedings.

- **New provisions proposed to deposit excess collection of Service Tax to the Central Government, consequential liability towards interest on such excess collection and provisional attachment to protect revenue in certain cases :**

A new section 73A has been proposed, whereby person is liable to pay Service Tax or any person who collects amount representing Service Tax from another person is required to pay such amount forthwith to the Central Government. Moreover as per proposed section 73B, Central Government has been empowered to collect interest not below 10% and not exceeding 24% on the amount required to payable under Section 73A. Interest is required to be paid on delayed payment even



Helping Clients Keep More of what they Earn

though amount payable does not represent Service Tax. As per the provisions of Section 73C provisional attachment of property belonging to the person on whom the notice has been served under Section 73(1) or 73A(3) has been proposed.

- **Amendment in quantification of amount of penalty under section 76 for default in payment of Service Tax proposed :**

Hitherto penalty for default in payment of Service Tax was payable at not less than Rs. 100 per day, which may extend to Rs. 200 per day of default. However, restricted to amount of service tax payable.

As per the proposed provisions, penalty is payable either at 2% of the tax per month or Rs. 200 per day, whichever is higher. However, restricted to amount of service tax payable.

- **Advance Rulings :**

Amendment in Section 96C has been proposed to widened the scope of advance rulings to determination of liability to pay Service Tax. Under the existing provisions, advance Ruling Authorities are empowered to entertain applications only with respect to classification, valuation and exemption related matters under Service Tax.

VII. OTHER AMENDMENTS INCLUDING PROCEDURAL AMENDMENTS

Procedural Amendments effective from 01-03-2006 :

Vide notification no. 5/2006-ST dated 01-03-2006 various amendments in the Service Tax Rules have been provided. The same are as under :

- Assessee to intimate jurisdictional AC/DC in writing about any change in any information or details furnished in form ST-1 at the time of obtaining registration Certificate [Rule 4(5A) of Service Tax Rules].
- Assessee ceases to provide taxable Service shall surrender his registration certificate to the superintendent of Central Excise. The Superintendent should cancel the registration certificate after ensuring that the assessee has paid all monies due to the Central Government [Rule 4(7) & Rule 4(8) of Service Tax Rules].
- Time limit for preserving Service tax record has been made as 5 years. Moreover, rules have been formed to allow its inspection to Central Excise Officers, who have been authorized in writing by AC/DC [Rule 5(3) & Rule 5(4) of the Service Tax Rules].



Helping Clients Keep More of what they Earn

- Vide Notification no. 4/2006-ST dated 01-03-2006 an abatement of 90% of value of taxable services in relation to financial leasing service including equipment leasing and hire purchase provided by banking financial institution or NBFC or body corporate or commercial concern has been allowed. However, such abatement is restricted to interest cost of leasing or hire purchase transaction and shall not extend to other charges like lease management fee, processing fee, documentation charges and administrative fees etc.
- Vide Notification No. 6/2006-ST dated 01-03-2006 taxable service in relation to technical testing and analysis of water quality provided by a Government owner state or District Level Laboratory has been exempted.
- Vide Notification No. 7/2006-ST dated 01-03-2006 any taxable services provide by Reserve Bank of India has been exempted.
- An explanation to Section 65(106) has been proposed, whereby testing or analysis for the purpose of determination of the nature of diseased condition, identification of a disease prevention of any disease or disorder in human beings or animal have been kept outside the preview of service tax on “technical testing and analysis” services. This amendment is proposed and effective from date to be notified.
- An explanation to Section 65 has been proposed to clarify applicability of service tax on un-incorporated association or body of person providing taxable services to its members for valuable consideration. This amendment is proposed and effective from date to be notified.

Chapter II Amendment under Customs

I. CHANGES IN RATE OF CUSTOMS DUTY (Effective from 01-03-2006) :

a. Basic Customs Duty (Major highlights) :

PEAK RATES ON NON-AGRICULTURAL PRODUCTS REDUCED FROM 15% TO 12.5%

Reduction in Rate of duty	Commodity description
From 30% to 12.5%	<ul style="list-style-type: none">• Crude glycerin
From 15% to 5%	<ul style="list-style-type: none">• Mineral products of chapter 25 i.e. salt, sulphur, earths and stone, plastering materials, lime and cement except for cement, marble, granite and asbestos.• MP3 Players
From 15% to 12.5%	<ul style="list-style-type: none">• Fatty Acid content of 20% or above for soaps
From 15% to 10%	<ul style="list-style-type: none">• Man made fibres, filament yarns and spun yarns.• Specified textile machinery and parts for manufacture of machinery• Basic inorganic chemicals such as halogens, sulphur, carbon, hydrogen, falling under headings 2801 to 2805• Methanol• Vinyl Acetate monomer• Butyl Rubber• Metallurgical grade silicon• Borax/Boric acid• Potassium Chloride• Glass frit and glass granules under chapter 32 07 40 00



Helping Clients Keep More of what they Earn

Reduction in Rate of duty	Commodity description
From 10% to 7.5%	<ul style="list-style-type: none"> • Primary and semi-finished forms of Alloy steel, Aluminum, Copper, Zinc • Ferro Alloy • Tin, • Base Metals of Chapter 81 • Catalysts under heading 3815 • Refractories and raw materials for refractories.
Reductions to 5%	<ul style="list-style-type: none"> • Organic chemicals excepting Chloromethane and Trichloroethylene Polymers of Ethylene. • Polymers of Ethylene and Copolymers of Propylene, Styrene and Vinyl Chloride. • Naphtha. • Specified anti-cancer and anti-aids drugs • Natural gas including propane and butane • Two specified diagnostic kits and a equipment (exempt from CVD). • Ethyl Vinyl Acetate • Petroleum Coke • 14 specified Anti Cancer and 10 specified anti AIDS drugs. • 2 specified diagnostic kits. • Broken Glass (Cullet) • Parts of Pen • Bisphenol-A and Epichlorohydrin, for the manufacture of Epoxy Resin,



Helping Clients Keep More of what they Earn

Reduction in Rate of duty	Commodity description
Reductions to 5%	<ul style="list-style-type: none"> Phenol/acetone, for manufacture of bisphenol-A. Packaging machinery, falling under 8422 30 00 and 8422 40 00.
From 5% to 2%	<ul style="list-style-type: none"> Mineral ores and concentrates Styrene, Ethylene Dichloride and Vinyl Chloride Monomer Paraxylene
Reductions to NIL duty	<ul style="list-style-type: none"> Set Top Boxes (however, 16% CVD plus 4% Special Additional Duty to be imposed) Naphtha for manufacture of specified Polymers. Parts of hearing aid.

Increase in Rate of duty	Commodity description
30% to 80%	<ul style="list-style-type: none"> Vanaspati, Bakery shortening, margarine and other modified preparations of edible grade falling under heading 1516, 1517 and 1518
To 5%	<ul style="list-style-type: none"> Steel Melting Scrap
30% to 60%	<ul style="list-style-type: none"> Honey

b. Special Additional Duty under Section 3(5) of the Customs Tariff Act'1975 :

- **Applicable to all Imports** - Vide Notification no.19/2006-Cus dated 01-03-2006, the Special Additional Duty of 4% has been introduced on all imported goods. Such levy of 4% was introduced to ITA products last year. This duty is to provide a level playing field to the importers vis-à-vis domestic manufacturers from the perspective of VAT charged on local sales. However, said special CVD shall be eligible as CENVAT credit as per the provisions of Rule 3 of the CENVAT Credit Rules'2004. However, the CENVAT Credit shall only be available to the manufacturers and not to output service providers as per the existing provisions of Rule 3 of the CENVAT Credit Rules'2004.



Helping Clients Keep More of what they Earn

- Vide Notification no.20/2006-Cus dated 01-03-2006, articles of jewellery would attract lower rate of 1% Special Additional Duty. Moreover, no such duty shall be levied in respect of following :
 - Goods which are fully exempt from VAT
 - Goods which are exempted both from basic Customs Duty and CV duty
 - Petroleum crude, kerosene for PDS, LPG for domestic supply, petrol, diesel, coal, coke and petroleum gases and fuel of Chapter 27
 - Goods for Export promotion schemes under which imports are allowed at zero duty
 - Passenger baggage
 - Fertilizers and inputs for fertilizers
 - Newsprint, glazed newsprint, wood pulp for newsprint
 - DTA clearances of EOUs/EHTP/STP/SEZ units, provided such goods are not exempted from sales tax/VAT.
 - Gold concentrate
 - Gold, silver, rough and cut diamonds, precious metals, precious and semi-precious stones (Chapter 71)
 - Imports by EOUs and units in the EHTPs/STPs or SEZs
 - Ships for breaking up
 - Non-mega power projects, transmission and distribution projects, and high voltage transmission equipments
 - Information Technology Software.

II. PROVISIONS REGARDING RELINQUISHMENT OF TITLE CHANGED (Effective from date when the finance bill receive the ascent of the President of India) :

Hitherto as per the provisions of section 23 of the customs Act an owner of imported goods was entitled to relinquish his title to goods prior to its assessment either before clearance to home consumption or to warehouse. In such situation he was not required to pay Customs duty on the imported goods. The importers were taking advantage of this provision by importing prohibited goods and relinquishing title in case the same were caught. An amendment has been proposed in this regard whereby relinquishment of title shall not be allowed where there is an offence under Customs Act or any other law. Similar amendment has been proposed in Section 68 relating to warehoused goods.

III. SCOPE OF PROJECT IMPORT BENEFIT WIDENED (Effective from 01-03-2006) :

Vide Notification No. 17/2006-Cus dated 01-03-2006 and Notification No. 18/2006-Cus dated 01-03-2006, the facility of Project Imports has been extended to Pipeline projects for the transportation of crude oil, petroleum products and natural gas. The sponsoring authority for issuance of eligibility certificate in respect of these project would be the Ministry of Petroleum and Natural Gas.



Helping Clients Keep More of what they Earn

IV. WITHDRAWAL OF CERTAIN EXEMPTION/CONCESSIONS *(Effective from 01-03-2006)* :

- Subbed polyester base, for the manufacture of medical or industrial X-ray films and graphic art films.
- Saddle tree.
- Parts of outboard motors imported by specified agencies.
- Spare parts for maintenance of textile machinery.
- Video cassettes and video tapes imported by Television Centre of All India Radio, or by M/s Electronic Trade and Technology Development Corporation Ltd or by others.
- Food preparations containing flour, meal, starch, etc. in a specified proportion meant for infant use and put up for retail sale.
- Food products (excluding alcoholic preparations) imported by hotels/tourism industry in terms of licenses issued under 1997-2002 Exim Policy.
- Plant, machinery, equipment imported for setting up of Currency Note/Bank Note Press at Salbony, Mysore, Nasik and Dewas.
- Exemption from CVD on gold concentrate. This exemption will continue by way of excise duty exemption.
- Specified goods for manufacture of capital goods for setting up of a unit with an investment of Rs 5 crore or more.

V. CALCULATION OF EXPORT OBLIGATION UNDER EPCG SCHEME CLARIFIED *(Effective from 01-03-2006)* :

Capital goods imported under EPCG Scheme are assessed to duty on the basis of transaction value as per the Customs Valuation Law. However, in respect of certain licences, while fixing the export obligation, which is a multiple of CIF value of imports, instead of taking into account the actual Customs assessed value, the corresponding value of new capital goods was taken. Notification No.160/92-Customs dated 20.4.1992 is being amended retrospectively to provide that in respect of these licenses, the export obligation would be refixed based on actual CIF value assessed by Customs instead of the corresponding value of new capital good.

VI. RETROSPECTIVE AMEDMENT MADE TO ALLOW IMPORTS MADE UNDER DEPB SCHEME DURING 01-10-2005 TO 03-10-2005 *(Effective from 01-03-2006)* :

Notification No.96/2004-Customs dated 17.9.2004 issued under DEPB Scheme expired on 30.9.2005 and subsequently, a new notification No.89/2005-Customs dated 4.10.2005 was issued to allow imports under DEPB Scheme without payment of customs duty upto 31.12.2005. There was a gap of three days between the expiry of the earlier notification and issue of the new one. Notification No.96/2004-Customs, issued under DEPB Scheme, is being amended so as to retrospectively permit benefit of DEPB Scheme to goods imported during the period 1.10.2005 to 3.10.2005 (both days inclusive).

Chapter III Amendment under Central Excise

VI. CHANGES IN RATE OF CENTRAL EXCISE DUTY - MAJOR HIGHLIGHTS (Effective from 01-03-2006) :

Reduction in Rate of duty	Commodity description
From 24% to 16%	<ul style="list-style-type: none">• Aerated waters• Petrol cars with length not exceeding 4 meters and engine capacity not exceeding 1200 cc• Diesel cars with length not exceeding 4 meters and engine capacity not exceeding 1500 cc.
From 16% to 8%	<ul style="list-style-type: none">• Heat resistant latex rubber thread• LPG gas stoves of value exceeding Rs.2000 per unit• Compact Fluorescent Lamps• Footwear of retail sale price between Rs.250 and Rs.750 per pair• MP3 Players and MPEG4 Players
From 16% to 12%	<ul style="list-style-type: none">• Specified printing, writing and packing paper.
From 16% to 8%	<ul style="list-style-type: none">• Ready to eat packaged food• Texturised vegetable protein (Soya bari) and instant food mixes, namely, pongal mix, vadai mix, pakora mix, payasam mix, gulab jamun mix, rava dosa mix, idli mix, dosai mix, murruku mix and kesari mix• All man made (like polyester, nylon, viscose and acrylic) fibres and filament yarns



Helping Clients Keep More of what they Earn

Reduction in Rate of duty	Commodity description
Reduced to NIL	<ul style="list-style-type: none"> • Paddy de-husking rice rubber rolls • Nuclear grade sodium produced by Heavy Water Board for supply to Kalpakkam Nuclear Power Plant • Drawing inks • Quebracho and Chestnut extract • Gold concentrate for refining • Condensed milk • Ice cream • Pectic substances, pectinates and pectates, pectin esterase • Yeast • Processed meat, fish and poultry products • Pasta, whether or not cooked or stuffed or otherwise prepared • Storage devices, namely, DVD-Drives, Flash Drives and Combo Drives

Increase in Rate of duty	Commodity description
Imposed at the rate of 8%	<ul style="list-style-type: none"> • Packaged software on electronic media. • Goggles • Articles of wood • Registers, accounts books, order books, receipt books, letter pads, memorandum pads, dairies, binders, folders • file covers, etc. (excluding note books and exercise books) • Paper labels • Paper pulp moulded trays • Articles of mica



Helping Clients Keep More of what they Earn

Increase in Rate of duty	Commodity description
Imposed at the rate of 8%	<ul style="list-style-type: none"> • Goods containing at least 25% by weight of fly ash/phospho gypsum • Roofing tiles • Raw, tanned or dressed fur skins • Portable receivers for calling, alerting or paging • Henna powder, not mixed with any other ingredient • 100% wood free plain or pre-laminated particle or fiberboard, made from sugarcane bagasse or other agro-waste • Parts of walking-sticks, seat-sticks, whips, riding-crops and the like • Parts of drawing and mathematical instruments • Frames and mountings for spectacles, goggles or the like, of value below Rs. 500 per piece
Imposed at the rate of 12%	<ul style="list-style-type: none"> • Computers
Imposed at the rate of 16%	<ul style="list-style-type: none"> • Set top boxes not covered under the Information Technology Agreement. • Umbrellas and sun umbrellas, and their parts • Food preparations intended for free distribution subject to end use certification (Food products, in general, are exempted unconditionally from excise duty) • Soap manufactured under a scheme for sale of Janata soap • Strips and tapes of polypropylene used in the factory of its production in the manufacture of polypropylene ropes • Parts and components of motor vehicles transferred to a sister unit for manufacture of goods falling under chapter 87 • Goods (other than Electrical stampings and laminations; Bearings; and Winding wires) supplied for manufacture of PD pumps for handling water. • Specified Goods meant for display in any fair or exhibition in India • Parts of table ware, kitchenware and other household articles of - iron and steel, copper, aluminium Railway track machines • Sulphur (2503 00 10). Sulphur falling under this tariff item for fertilizers will be exempt. • Mixture of graphite and clay for manufacture of pencils or pencil leads. • Aluminium ferrules for manufacture of pencils. • Tobacco used for smoking through 'hookah' or 'chilam', commonly known as 'hookah' tobacco or 'gudaku'.
Increased from 8% to 16%	<ul style="list-style-type: none"> • Mosaic tiles • Glassware • Lay flat tubing • Cigarette filter rods



Helping Clients Keep More of what they Earn

II. **KEY LEGISLATIVE CHANGES** *(Effective from the date when the finance bill receive the ascent of the President of India :*

- To give effect to the proposed introduction of Section 73A into the Finance Act, 1994 (corresponding to Section 11D of the Central Excise Act, 1944), which provides for the payment of any excess amount collected as Service Tax into the credit of the Central Government, an amendment to Section 12C of the Central Excise Act, 1944 has been introduced so as to facilitate the credit of such excess Service Tax into the Consumer Welfare Fund.
- The jurisdiction of the Authority for Advance Ruling is proposed to be enhanced to cover the question of determination of excisability of any article, by way of an amendment to Section 23C of the Act. This amendment shall overcome the view held by the AAR that it has no jurisdiction to decide questions whether the activity undertaken amounts to “manufacture”
- To overcome the effect of the judgment of the Tribunal in **Amritlal Chemaux Ltd. [2004 (172) ELT 475 (Tri.)]** insofar as it relates to the packing / repacking of naphthols as amounting to manufacture, Chapter Note 7 to Chapter 32 is being amended to cover goods of heading 320419 (Naphthols) also.
- To overcome the effect of the judgment of the Supreme Court in **Metlex (India) Pvt. Ltd. v/s Commissioner of Central Excise [2004 (165) ELT 129 (SC)]**, Chapter Note 16 is proposed to be inserted to Chapter 39 of the Tariff whereby the process of metallization of plates, sheets, etc. of plastic shall amount to ‘manufacture’
- The Supreme Court in **Collector of Central Excise v/s Technoweld [2003 (155) ELT 209 (SC)]** had held that the drawing of wire from wire bars / rods does not amount to manufacture. To overcome the effect of the judgment, Section Note 10 was inserted in Section XV to make the drawing / redrawing of wires from rods / wires or other similar articles as amounting to manufacture. However, the judgment of the Hon'ble Supreme Court in **Vee Kayan Industries v/s CCE [1996 (83) ELT 262 (SC)]** and of the Customs Excise and Service Tax Appellate Tribunal in **Shree Ram Wire Industries v/s Commissioner of Central Excise [2003 (151) ELT 593 (Tri.)]** appeared to cover the drawing of bright bars from wire rods/ bars *de hors* the issue before the Supreme Court in **Technoweld**. This is now proposed to be addressed by the introduction of Chapter Note 4 to Chapter 72, whereby the process of drawing or redrawing a bar, rod, wire rod, round bar or any other similar article, into bright bar, shall amount to “manufacture”.
- The Supreme Court had held in **Tega India Limited v/s Commissioner of Central Excise [2004 (164) ELT 390 (SC)]** that the coating of tubes or pipes by plastics, etc., does not amount to manufacture. The effect of the said judgment was partially overcome by way of introduction of Chapter Note 5 to Chapter 73 which resulted in the process of coating with cement or polyethylene of other plastic material of articles falling under headings 7304 and 7305 of the Tariff as amounting to manufacture. The scope of the Chapter Note is proposed to be extended to cover all pipes, tubes and hollow profiles including those covered by heading 7306 as well.



Helping Clients Keep More of what they Earn

- An amendment has been proposed to take effect from 01.01.2007 is the complete alignment of the Central Excise Tariff with the legal text of the International Convention on the Harmonised Commodity Description and Coding System. Such an alignment will make the HSN extremely relevant in matters of classification.

III. AMENDMENTS PERTAINING TO SMALL SCALE INDUSTRIES (Effective from 01-03-2006) :

- Annexure appearing in Notification No.8/2003-CE dated 01-03-2003 amended vide Notification No.8/2006 dated 01-03-2006 which provides the description of goods to which benefit of SSI exemption is available. The said amendment has been made pursuant to change of Central Excise Tariff from 6 digit to 8 digit last year. The amendment will have effect on SSI units for its workings for Financial Year 2006-07.
- SSI exemption shall be available for following specified goods for the period between 01-03-2006 to 31-03-2006 provided total value of clearance is less than Rs.10 lakhs for the said period.
 - Tobacco used for smoking through “hookah” or “chilam”, commonly known as “hookah” tobacco or “gudaku” falling under tariff item no. 2403 10 10.
 - Other smoking tobacco falling under tariff item no. 2403 10 90, other than those bearing a brand name.
 - Other manufactured tobacco and manufactured tobacco substitutes falling under tariff item no. 2403 99 90, other than those bearing a brand name.

IV. AMENDMENTS IN RELATION TO MRP BASED VALUATION (Effective from 01-03-2006) :

- Notification No.13/2002-CE dated 01-03-2002 amended vide Notification No. 2/2006 dated 01-03-2006 providing rate of abatement of excise duty from MRP for determining assessable value as per the provisions of Section 4A of the Central Excise Act’1944. The amendment in the notifications have also been made towards change of Central Excise Tariff from 6 digit to 8 digit last year. The major highlight of such amendments in rate of abatement from MRP are as under :

Description of goods	CETA	Previous	Present
Aerated water	2201 10 20 or 2202 10 10	45%	42.5%
Compact Fluorescent Lamp	8539	40%	37%
Footwear having MRP between Rs.250/- to Rs.750/-	6401 to 6405	40%	37%



Helping Clients Keep More of what they Earn

Description of goods	CETA	Previous	Present
Ready to eat packaged goods	2106	40%	37%
Concentrated Milk whether sweetened or not	0402 91 10 or 0402 99 20	35%	NIL
Pasta, whether or not cooked or stuffed other than seviyan	1902	35%	NIL
Ice Cream	2105 00 00	45%	NIL

VI. DUTY RATE REDUCED FOR CLERANCE TO DTA BY EOU, STP, EHTP
(Effective from 01-03-2006) :

Duty on clearances of goods to Domestic Tariff Area from Export Oriented Units, Software Technology Parks, Electronic Hardware Technology Parks etc. has been changed from 50% of aggregate of customs duties to 25% of the basic customs duty plus excise duty payable on like goods.