



UNION BUDGET 2007-2008

An Analysis of Indirect Tax Proposal

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Chapter I Amendment under Service Tax

- I. SERVICE TAX RATE REMAINED UNCHANGED AT 12%.** However, secondary and Higher education cess of @ 1% imposed on all taxable services. Thus effective tax liability on taxable services would become 12.36%. *The said amendment is effective from date when the finance bill receive the ascent of the President of India*
- II. SERVICE TAX NET WIDENED - 7 NEW SERVICES INTRODUCED** *(Effective from date to be notified)*

New Service	Coverage		Our Comments
	Who	What	
Telecommunication Service Section 65(105) (zzzx) & 65 (109a)	By the telegraph authority	Services in relation to telecommunication service to any person. An exhaustive definition of telecommunication service has been proposed.	Taxable Services in relation to telephone connection, pager, leased circuit, communication through telegraph, telex and FAX taxable under various category have been categorically merged under telecommunication services.
Mining Service Section 65(105) (zzzy)	By any person	Services in relation to mining of mineral, oil or gas.	It has been clarified that various mining services like survey and exploration of mineral, site formation and clearance, excavation and earth moving, drilling wells for production, well testing etc.. would be comprehensively charged under this category of service. Although separate definition of mining of mineral, oil or gas has not been provided.



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New Service	Coverage		Our Comments
	Who	What	
<p>Renting of Immovable Property Service Section 65(105) (zzzz) & 65 (90a)</p>	<p>By any person</p>	<p>Services in relation to renting of immovable property for use in the course or furtherance of business or commerce.</p>	<ul style="list-style-type: none"> • For use in the course or furtherance of business or commerce would include use of immovable property as factories, office buildings, warehouses, theatres, exhibition halls and multiple use buildings. • Building used solely for residential purpose is excluded. • Buildings used for purpose of accommodation including hotels, hostels, boarding houses, holiday accommodations, tents, campaign facilities are excluded. • Renting would include letting, leasing, licensing or similar arrangement. • Religious and educational body are excluded, however, such exclusion is not applicable for commercial training or coaching center. • Immovable property used partly for residential purpose and partly for business or commerce shall be included. • Immovable property shall include building, land, common place but does not include vacant land used for agriculture, aquaculture, farming, forestry, animal husbandry, mining. Land used for educational, sports, circus, entertainment and parking purposed shall not be included.



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New Service	Coverage		Our Comments
	Who	What	
<p>Execution of a works contract Section 65(105) (zzzza)</p>	<p>By any person</p>	<p>Services in relation to the execution of a works contract, excluding works contract in respect of roads, airports, railways, transport terminals, bridges, tunnels and dams.</p>	<ul style="list-style-type: none"> • The Hon'ble Supreme Court and various other Tribunal had held that the works contract cannot be vivisected and part of it subjected to service tax. An amendment in the Finance Act is proposed to overrule such findings to the Hon'ble Supreme Court and to bring works contact on which an assessee has to pay VAT/Sales Tax under the purview of Service Tax. • Following works contacts are being proposed under the Service Tax net : <ul style="list-style-type: none"> ❖ Erection, commissioning or installation. ❖ Commercial or industrial construction ❖ Construction of residential complex ❖ Turnkey project including engineering, procurement, construction or commissioning (EPC) • Service tax at the rate of 2% on the total value of works contract proposed. Assessee availing such scheme shall not be eligible for CENVAT Credit on input, input services or capital goods. A separate scheme in this regard may be notified later.



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New Service	Coverage		Our Comments
	Who	What	
<p>Development and supply of content service Section 65 (105) (zzzzb) & 65 (36c)</p>	By any person	Services in relation to development and supply of content.	<p>Development and supply of following for use in telecommunication services, advertising agency services and on-line information and database access or retrieval services is taxable</p> <ul style="list-style-type: none"> • Mobile value added services • Music • Movie clips • Ring tones • Wall papers • Mobile games • Data whether or not aggregated • Information • News • Animation films
<p>Asset management including portfolio management and all forms of fund management service Section 65 (105) (zzzzc)</p>	By any person	Services in relation to asset management including portfolio management and all forms of fund management	<p>Banking company or a financial institution including a non banking financial company or any other body corporate or commercial concern providing such asset management services was already under the Service Tax net. However, by the proposed amendment an individual providing such asset or portfolio management has been brought under the service tax net.</p>
<p>Design Services Section 65 (105) (zzzzd) & Section 36(b)</p>	By any person	<p>Services in relation to designing of :</p> <ul style="list-style-type: none"> • Furniture, • Consumer products, • Industrial products, • Packages, • Logos, • Graphics, • Websites, • Corporate identity designing and • production of three dimensional models 	<p>Services rendered by an interior decorator and a fashion designer in relation to fashion designing shall be charged under the respective category.</p>

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

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
Sale of space or time for advertisement. [Section 65(105) (zzzm)]	Sale of space or time for Advertisement are covered with specific exclusion of print media	Sale of space for advertisement in publication meant for commercial purposes are proposed to be covered.	Commercial publication like business dictionaries, yellow pages and trade catalogues meant for commercial purposes are specifically covered.
Rent-a-cab Services. [Section 65 (20)]	Include rent-a-car scheme operator in relation to renting of car.	The term 'Cab' extended to include motor vehicles capable of carrying more than 12 passengers excluding driver.	Renting of motor vehicles for more than 12 passengers has been included. Renting of such motor vehicle to educational institute have been excluded, however, commercial training and coaching institute are not excluded.
Mandap keeper, pandal and shamiana services. [Section 65(66), (67), (77a)]	Includes, use of mandap, shamiana & pandal in any manner including facilities provided therewith.	Specifically services in relation to organize marriage functions are being proposed to be included in the service tax gamut.	Henceforth, services in relation to marriage functions are comprehensively taxed.
Event management services. [Section 65 (40)]	Services by an event manager in relation to event management.	The scope of service extended to include services in relation to marriage functions.	Marriages in high society are being outsourced to various event managers. The said services have been proposed to be taxable. Moreover, such levy would also include consultation provided in relation marriages.



Taxable Service	Present Scope	Proposed Scope	Our Comments
<p>Manpower recruitment or supply services. [Section 65(105)(k)]</p>	<p>Recruitment and supply agency in relation to recruitment or supply of manpower, temporary or otherwise.</p>	<p>Specifically, the services in relation to pre-recruitment procedures are being proposed to include in the tax net.</p>	<p>Definition of services is clarified and all the recruitment and supply services now covered.</p>
<p>Banking and other financial services. [Section 65 (105) (zm)]</p>	<p>Various services as explained in Section 65(12) are included.</p>	<ul style="list-style-type: none"> ▪ In the definition 'any other person' replaced by commercial concern to settle existing speculation. ▪ Services in relation to cash management are proposed to be included. ▪ Transaction pertaining to financial lease specifically clarified. 	<p>Cash management services hitherto specifically excluded has been proposed to be taxed. Moreover, speculation as regards inclusion of individual practicing in their own name has been taken out.</p>
<p>Management consultant's services. [Section 65(65)]</p>	<p>Included various specified services in connection with management of any organization.</p>	<p>The definition has been proposed to be amended to include management of any organization or business.</p>	<p>Scope has been extended to include business which has wider scope than that of an organization</p>
<p>Consulting engineer's services. [Section 65 (105) (g)]</p>	<p>Advice, consultancy and technical assistance in engineering.</p>	<p>Specifically, computer hardware engineering services are being included in the taxable service category.</p>	<p>Computer software engineering services have been specifically excluded.</p>

Taxable Service	Present Scope	Proposed Scope	Our Comments
Management, maintenance or repair service. [Section 65(64)]	Service provided by a person in relation to management, maintenance and repair of properties and goods was included.	An explanation to said section has been proposed to specify goods includes "computer software"	Maintenance, repair including reconditioning or restoration or servicing of software by the manufacturer or his authorized person may be attracted.

IV. KEY LEGISLATIVE CHANGES :

Threshold limit of service tax exemption for small service providers extended to Eight lakhs from existing 4 Lakhs : Effective from 01-04-2007 vide Notification No. 4/2007-ST dated 01-03-2007

Vide Notification No. 4/2007-ST dated 01-03-2007, threshold limit of service tax exemption for small service provider has been extended to **eight** lakhs from existing **four** lakhs in any financial year. The said new limit would be applicable for the Financial Year 2007-2008. Accordingly, limit for obtaining registration have been extended to **seven** lakhs from existing **three** lakhs.

Adjustment of excess service tax paid in a month/quarter available to all the assesses : Effective from 01-03-2007 vide Notification No.1/2007-ST dated 01-03-2007

Hitherto service providers having centralized registration number were allowed to adjust any excess amount of service tax paid subject to specified conditions against their subsequent service tax liability. Effective from 01-03-2007 such adjustment flexibility would be applicable to all the assessee, subject to following conditions :

- Such excess amount paid should not be on account of interpretation of law, taxability, classification, valuation or applicability of any exemption notification.
- A monetary limit of Rs.50,000/- for relevant month or quarter has been provided. However, assessee having centralized registration has no such limit.
- A details and reasons of such adjustment to be intimated to the jurisdictional Superintendent of Central Excise within 15 days of such adjustment.



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A new concept of revised return has been introduced : Effective from 01-03-2007 vide Notification No.1/2007-ST dated 01-03-2007

A new concept of revised return to correct mistake or omission has been introduced with effect from 01-03-2007. A revised return shall be submitted in form ST-3 in triplicate within 60 days from the date of submission of original return.

Surrender of original registration certificate not required for amendment in existing registration or incorporation of new taxable services an intimation may be sufficient : Effective from 01-03-2007 vide Notification No.1/2007-ST dated 01-03-2007

Hitherto for amendment to information pertaining existing registrant the original registration certificate was required to be surrendered. Such practice cause undue hardship to various sections of assessee. Effective from 01-03-2007, self certified registration certificate shall suffice such requirement. Moreover, necessary amendment in the registration form in this regard has also been specified.

Hitherto for any change in information or details furnished in the registration form, an assessee was required to furnish such amended registration form. It has been provided that intimation about such change of information and/or details shall suffice the requirements.

Relevant amendment in definition of export services made to settle existing legal dispute in relation to commission income generated by Indian counterpart of foreign multinationals : Effective from 01-03-2007 vide Notification No.2/2007-ST dated 01-03-2007

Amendment in the condition of export of services has been made so as to replace word “delivered outside India” with the word “provided from India”. Thus, Indian counterpart of multinational company presenting fighting legal battle in relation to taxability of commission etc.. earned on procurement of orders for their foreign parent company would be treated as export of service not liable to service tax.

Other Amendments :

Hitherto sponsorship services were extended to any body corporate or firm irrespective of its location. It has been clarified that service tax is applicable to body corporate **located in India**. Effective from 01-03-2007 vide Notification No.1/2007-ST dated 01-03-2007

Vide Notification No. 8/2007-ST dated 01-03-2007 a resident welfare association have been exempted from service tax in relation club or association services subject to the condition that total consideration received from an individual member by the said association is less than three thousand rupees per month.



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Vide Notification No. 9/2007-ST dated 01-03-2007 all taxable services provided by a Technology Business Incubator (TBI) or a Science and Technology Entrepreneurship Park (STEP) recognized by the National Science and Technology Entrepreneurship Development Board (NBTEEDB) of the Department of Science and Technology, Government of India have been exempted subject to fulfillment of specific conditions. Similarly, entrepreneur located within TBI or STEP with total business turnover not exceeding Rs.50 lakhs in a given financial year have also been exempted subject to fulfillment of specific conditions.

Vide Notification No. 11/2007-ST dated 01-03-2007 clinical research organization approved to conduct clinical trials by the Drug Control General of India in relation to testing and analyzing newly developed drugs including vaccines and herbal remedies have been exempted.

Vide Notification No. 12/2007-ST dated 01-03-2007 exemption is provided to a services provided by the digital cinema provider to the producer or distributor in relation to the delivery of content of cinema in digital form after encryption electronically. The said exemption is available if the content being in digitized form, transmitted directly to a cinema theatre for exhibition through satellite, microwave or terrestrial communication line and not by any physical means including CD and DVD.

Order of the Commissioner of Central Excise (Appeal) to be reviewed by the Committee of two Chief Commissioner of Central Excise or two Commissioner of Central Excise.

Chapter II Amendment under Customs

I. REDUCTION IN PEAK CUSTOM DUTY RATE : (Effective from 01-03-2007)

Peak rate for non agricultural goods reduced from 12.5% to 10%. However, the effective reduction in aggregate duty is 2.61% instead of 2.5%. Please refer the following calculation :

Particulars	Up to 28-02-2007		From 01-03-2007	
	RATE	VALUE	RATE	VALUE
Assessable Value		100		100
Basic Customs Duty	12.5%	12.50	10%	10.00
Additional duty of Customs under Section 3 (1) of Customs Tariff Act 1975 (CVD)	16%	18.00	16%	17.60
Education Cess on CVD	2%	0.36	2%	0.35
Secondary & Higher Secondary Education Cess on CVD	-		1%	0.17
Education Cess on Basic Customs Duty	2%	0.61	2%	0.56
Secondary & Higher Secondary Education Cess on Customs	-		1%	0.28
Additional Duty of Customs under Section 3(5) of Customs Tariff Act 1975	4%	5.25	4%	5.16
Aggregate Duty		36.74		34.13
Net Reduction of aggregate duties & cess				2.61



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II CHANGE IN CUSTOMS DUTY RATES FOR VARIOUS ITEMS : (Effective from 01-03-2007)

Description Of Goods	Present Rate Up to 28-02-2007 (%)	Proposed Rate From 01-03-2007 (%)
<i>Products of animal origin - Coral</i>	30	10
<i>Gums resin and other vegetable saps and extracts - Dammar batu</i>	30	20
<i>Animal or vegetable fats and oils and others -</i>		
Glycerol waters and lyes	30	20
Crude sunflower oil	65	50
Refined sunflower oil	75	60
<i>Sugar confectionaries - Dextrose monohydrate</i>	30	20
<i>Beverages - Ethyl alcohol and other spirits</i>	10	7.5
<i>Residue and waste from food industry Dog or cat food</i>	30	20
<i>Mineral products - Boron ores</i>	5	2
<i>Ores slag and ash - Mineral fuels and mineral oils Coking coal of ash content 12% or more</i>	5	Nil
<i>Inorganic chemicals</i>		
Fluorine, chlorine, bromine and iodine	10	5
Sulphur, colloidal sulphur	10	5
Carbon, Hydrogen, rare gases and other non-metals	10	5
Alkali or alkaline earth metals	10	5
Titanium dioxide	12.5	10
Borax and boric acid	10	5
All other inorganic chemicals	12.5	7.5



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Description Of Goods	Present Rate Up to 28-02-2007 (%)	Proposed Rate From 01-03-2007 (%)
Organic Chemicals		
Caprolactum	10	10
Mannitol and Sorbitol	20	20
All other organic chemicals	12.5	7.5
No change in the levy on items attracting less than 7.5%		
Fertiliser		
All goods reduced to 7.5%		
No change in the levy on items attracting less than 7.5%		
5% Rate applicable across the board for urea		
Dyes, colors, paints and tanning extracts		
Pigment and preparation based on titanium dioxide	12.5	10
Ceramic colors	12.5	5
Glass frits and other glass	12.5	5
Tanning extracts	12.5	7.5
Synthetic organic tanning substance	12.5	7.5
Coloring matter	12.5	7.5
Synthetic organic coloring matter	12.5	7.5
Color lakes	12.5	7.5
Prepared pigments	12.5	7.5
Soap, organic surface active agent		
	12.5	7.5
Lubricating preparation		



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Description Of Goods	Present Rate Up to 28-02-2007 (%)	Proposed Rate From 01-03-2007 (%)
Miscellaneous chemical products		
Finishing agents with the basis of Amylaceous substance	20	20
Sorbitols other than that of Sub heading 290544	20	20
Artificial graphite	12.5	7.5
Activated carbon	12.5	7.5
Tall oil	12.5	7.5
Residual lyes	12.5	7.5
Gum	12.5	7.5
Rosin and resin acids	12.5	7.5
Wood tar	12.5	7.5
Finishing agents	12.5	7.5
Pickling preparation	12.5	7.5
Prepared rubber accelerators	12.5	7.5
Refractory cements	12.5	7.5
Mixed alkyl benzene	12.5	7.5
Prepared culture media for development of micro organisms	12.5	7.5
Prepared binders	12.5	7.5
Rubber and articles thereof - Synthetic rubber	10	5
Fur skins and artificial fur and man made filaments		
Polyester filament yarn	10	7.5
Man made staple fibre		
Polyester staple fibre	10	7.5
Umbrellas and parts of umbrellas	12.5	5
Pearls, precious stone		
Cut and polished diamonds	5	3
Rough synthetic gemstone	12.5	5



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Description Of Goods	Present Rate Up to 28-02-2007 (%)	Proposed Rate From 01-03-2007 (%)
Iron and Steel - Seconds and defectives of iron and steel	20	10
Machinery and mechanical appliances		
Sprinklers and drip irrigation systems	7.5	5
Food processing machinery and their parts	7.5	5
Presses for manufacture of particle board	12.5	5
Record magnetic films for producing TV serials	Nil	10
Ships boats and floating structures - Dredgers	5	Nil
Photographic, medical and measuring instruments		
Instruments and appliances used in medical, Surgical dental or veterinary science	12.5	7.5
Orthopaedic appliances	12.5	7.5
Apparatus based on theuses of X-rays	12.5	7.5
Dials and watch movements	12.5	5

III. IMPORTANT AMENDMENTS IN RELATION TO EXPORT DUTY & EXEMPTIONS :

Export duty

Export duty has been imposed on Iron ores and concentrates at Rs. 300 per tonne and on Chromium ores and concentrates at Rs. 2,000 per tonne.

Exemptions

- Edible grade vegetable oil exempted from 4% additional duty of custom
- Molybdenum and concentrate exempted from 4% additional duty of custom
- Extension of full exemption to aramid fabrics extended
- Concessional customs duty of 5% on specified plantation machinery extended by two years
- Exemption of additional duty of customs on parts components and accessories of mobile handsets extended to 2009

Exemptions

- Concessional rate of customs duty withdrawn on professional television cameras, audio recording equipment, and video editing machines
- Exemption from countervailing duty on specified parts of set-top boxes
- Exemption in respect of aircraft withdrawn
- Digital cinema development project notified as 'project imports'
- Exemption withdrawn on chemicals for use in manufacture of Centchroman.

Reduction of countervailing duty

Countervailing duty reduced to nil on raw tanned or dressed fur skins.

IV. AMENDMENTS IN RELATION TO SETTLEMENT COMMISSION : effective from date when the finance bill receive the ascent of the President of India

The provisions in relation to Settlement Commission has been amended in both Customs & Central Excise Laws. The major highlights of such amendments are as under :

- An applicant can file an application *only in respect of cases pending before the adjudicating authority*. It further provides that in respect of cases referred back by the Appellate Tribunal, Court or any other authority to the adjudicating authority for fresh adjudication, the applicant shall not be entitled to file an application.
- The duty liability in respect of the goods which the applicant is seeking a settlement should be the ones which figure in his daily stock register & which are referred to in the returns filed. *This means to say that cases involving clandestine removal of goods under Central Excise are debarred from Settlement*. So also, while filing an application, the applicant has to deposit the additional amount of excise duty accepted by him along with the stipulated interest due thereon. Furthermore, the *minimum settlement amount has been enhanced to Rupees Three lakhs* from the earlier limit of Rupees Two lakhs.
- Time limit at every stage for the disposal of the application filed before the Settlement Commission has been amended. It also provides that *the amount of Settlement ordered by the Commission shall in no case be less than the duty liability admitted by the applicant*. Furthermore, the Settlement amount is required to be paid within 30 days of the receipt of the order and *no extension for payment shall be granted by the Commission*.
- Amendment has been proposed so as to debar the Settlement Commission from granting immunity from prosecution for any offence under the Indian Penal Code of any Central Act for the time being in force *other than the Central Excise & Customs Act*. It is also being amended so as to strip the Settlement Commission of its power to grant waiver from imposition of interest under the Act. However, *it has been clarified that the applications pending before the Commission as on 31 st May 2007, shall be decided in accordance with the existing provisions*.



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- Amendment has been proposed so as to provide that *an applicant can apply for settlement only once during his lifetime so that the scheme of settlement is not treated as a permanent amnesty scheme by the tax evaders.* It shall also provide that in respect of cases involving identical recurring issues, the applicant shall be able to file application for settlement provided that his earlier application is pending before the Settlement Commission.

Chapter III Amendment under Central Excise

I. SECONDARY & HIGHER SECONDARY EDUCATION CESS NOT LEVIABLE ON GOODS MANUFACTURED PRIOR TO 01-03-2007 :

A Secondary and Higher Secondary Education Cess (S&H E Cess) of 1% on the effective duties of excise has been imposed effective from 01-03-2007. The pertinent question arises as to whether such S&H E Cess would be applicable on goods manufactured prior to 01-03-2007, lying in stock as on 28-02-2007 and cleared after imposition of the said cess from 01-03-2007. The said question arises because of the reason that liability of Central Excise is of manufacture, however, the said liability is payable on clearance.

The Central Board of Central Excise & Customs had earlier issued a Circular No. 345/2/2004-TRU (Pt.) dated 10-08-2004 in relation to similar issues when education cess was introduced in Union Budget 2004. The board clarified that :

“Education cess on Excisable goods is a new levy. In similar cases, it has been held by the Supreme Court that if a levy is not there at the time the goods are manufactured or produced in India, it cannot be levied at the stage of removal of the said goods. Thus, Education cess is not leviable on excisable goods manufactured prior to imposition of cess but cleared after imposition of such cess.”

We understand that in the light of the aforesaid clarification issued by the Central Board of Central Excise & Customs in relation to applicability of education cess, the treatment of S & H E Cess would be acceptable to the revenue, which is again a new levy.

II. CHANGE IN CENTRAL EXCISE DUTY RATES ON VARIOUS ITEMS : (Effective from 01-03-2007)

Description Of Goods	Present Rate Up to 28-02-2007 (%)	Proposed Rate From 01-03-2007 (%)
Biscuits cleared in packaged form, with per kg retail sale price equivalent to or not exceeding Rs. 50	8%	Nil
Pan Masala	37.5%	16%
All kinds of food mixes, including instant food mixes	8%	Nil



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Description Of Goods	Present Rate Up to 28-02-2007 (%)	Proposed Rate From 01-03-2007 (%)
Biris, other than paper rolled biris, manufactured without the aid of machine	Rs. 6 per thousand	Rs.10 per thousand
Biris, other than paper rolled biris, manufactured with the aid of machine	Rs.15 per thousand	Rs.22 per thousand
Motor Spirit commonly known as Petrol	8% plus Rs.5 per litre	6% plus Rs.5 per litre
High Speed Diesel (HSD)	8% plus Rs.1.25 per litre	6% plus Rs.1.25 per litre
All chemicals used in the manufacture of Centchroman	Nil	16%
Benezene for use in the manufacture of Caprolactum	16%	12%
Caprolactum	16%	12%
Nicotine Polacrilex gum	Nil	8%
Wading, Guaze	16%	8%
Nylon clips	16%	12%
Plywood, veneered panels and similar laminated wood	16%	8%
Synthetic Filament Yarn	16%	12%
Man made filament yarn	16%	12%
Parts of footwear	16%	8%
Umbrellas and sun umbrellas	16%	8%
Dust and powder of synthetic, precious or semi precious stones	Nil	8%



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Description Of Goods	Present Rate Up to 28-02-2007 (%)	Proposed Rate From 01-03-2007 (%)
Household type Water filter functioning without electricity	16%	Nil
Recorded video cassettes intended for television broadcasting	Nil	8%
Preparation for infant use, packed in unit containers	16%	Nil
Raw fur skin or tanned and dressed fur skin	Nil	16%
Toothbrushes	8%	16%

III. OTHER IMPORTANT AMENDMENTS / EXEMPTIONS :

- Exemption for Small Scale Industries increased from Rs. 1 crore to 1.5 crore. The said amendment would be effective from 1st April'2007
- Exemption to water supply pipes to continue.
- Certain exemptions such as parts of set-top box and high speed printing machine have been withdrawn.
- Exemption on household water purification devices not using electricity.
- Retail sale price based duty is being proposed for most of the personal computers (including laptop), parts and accessories.

IV. KEY LEGISLATIVE CHANGES :

Valuation of goods removed from Job workers premises : Effective from 01-04-2007 vide Notification No 9/2007-CE(NT) dated 01-03-2007

Rule 10A has been introduced in Central Excise Valuation (Determination of Price of Excisable Goods) Amendment Rules'2007 in relation to valuation of goods removed from the job work premises. The major highlights of such amendments are as under :



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- Hitherto valuation of goods removed from job worker's premises was made as per the decision of Hon'ble Supreme Court in the case of Ujagar Prints whereby the assessable value was determined as cost of raw material plus conversion charges for job work. In terms of Rule 10A the valuation of goods from job worker's premises would be carried out in following manner :
- Where goods are being sold from job worker's premises to an unrelated buyer the assessable value would be the transaction value being the sole consideration received from buyer. The transportation cost upto factory of job worker shall be included if charged separately from the buyer.
- Where goods are being removed from job worker's factory to any other place to be sold from such other place to an unrelated buyer, the assessable value would be the transaction value would be the prevailing price at place of sale. The transportation cost upto such place of sale shall be included if charged separately from the buyer.

Let us understand by an illustration how such value shall be determined :

Illustration : A Ltd. in Pune manufactures a semi finished goods and supplies to same to B Ltd. in Mumbai for further manufacture of final product. Final products are manufactured and sold from B Ltd premises in Mumbai to C Ltd., Bangalore at a unit price of Rs.100, the assessable value for the purpose of charging excise duty would be Rs.100. However, if A Ltd. gets the final products manufactured from B Ltd and supply the same directly to their depot in Bangalore and subsequently sale the said goods to C Ltd. in Bangalore. In such case assessable value of the final products would be the prevailing price in A Ltd. depot in Bangalore at the time of removal from the factory of B Ltd. Mumbai.

Powers given to jurisdictional Deputy/ Assistant Commissioner to deny CENVAT Credit for lack of proper particulars on Invoice : Effective from 01-03-2007 vide Notification No.10/2007-CE(NT) dated 01-03-2007

Hitherto CENVAT credit was not denied for lack of proper particular on invoices received from the supplier, if the jurisdictional AC/DC was satisfied that duty of excise or service tax due on input or input service has been paid and same are being used or to be used in manufacture of final product or providing output services. Moreover, such AC/DC was required to record the reason for not denying such credit in his records. Effective from 01-03-2007 amendment in Rule 9(2) of the CENVAT Credit Rules have been made whereby it is provided that :

- CENVAT credit shall not be taken unless all the particulars as prescribed under all the rules are contained in invoice, bill of entry or documents on which CENVAT credit is available.



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- AC/DC have been given powers to allow such credit if such improper documents contained at least required documents. Thus, Credit may be denied if an invoice does not contain all such particulars as required under the law. However, if it contains specific particulars, the credit may be allowed by AC/DC.

Central Excise Invoice to include address of Central Excise Division : Effective from 01-04-2007 vide Notification No.8/2007-CE(NT) dated 01-03-2007

Address of the concerned Central Excise division shall be incorporated in the Central Excise invoice effective from 1st April'2007

Compulsory e-payment of Central Excise Duty for unit paying annual duty of Rs. 50 lakhs or more through PLA : Effective from 01-04-2007 vide Notification No.8/2007-CE(NT) dated 01-03-2007

Assessee paying Central Excise duty of Rs.50 lakhs or more during Financial Year 2006-07 through PLA shall be required to deposit duty electronically through internet banking effective from 1st April'2007.

Monetary power of Central Excise Authorities modified : Effective from 01-03-2007 vide Notification No.8/2007-CE(NT) dated 01-03-2007

Monetary Powers in relation to remission of duty of various officers of Central Excise has been revised effective from 01-03-2007 as mentioned hereunder in a tabular format :

Superintendent of Central Excise	Up to 1,000	Up to 10,000
Assistant/Deputy Commissioner	1,001 - 2,500	10,001 - 1,00,000
Joint/ Additional Commissioner	2,501 - 5,000	1,00,001 - 5,00,000
Commissioner	Above 5,000	Above 5,00,000

Penalty for non issuance of invoice, issuance of invoice without delivery etc.. & quantification of Penalty revised : Effective from 01-03-2007 vide Notification No.8/2007-CE(NT) dated 01-03-2007

Non issuance of excisable invoice, issuance of excise invoice without delivery of goods specified therein or issuance of any documents whereon receiver takes any ineligible benefit of CENVAT or refund. A penalty on such offence would be Rs.5000 or amount of benefits, whichever is greater. Moreover, Penalty for other offence reduced from 10000 to 2000. Reduction in penalty would be effective from the date finance bill receive presidents assent.



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Other Amendments :

- Education cess and secondary and higher education cess are eligible as CENVAT credit and are also eligible for set off against each other. Effective 01-03-2007. *Effective from 01-03-2007 vide Notification No.10/2007-CE(NT) dated 01-03-2007*
- Insurance company carrying on general insurance business have been given option to exercise availment of CENVAT credit on input & input services based on specified formula on provisional basis. A detailed guidelines as regards calculation, assessment etc.. have been provided. *Effective from 01-04-2007 vide Notification No.10/2007-CE(NT) dated 01-03-2007*
- Transitional provisions extended to services providers. *Effective from 01-03-2007 vide Notification No.10/2007-CE(NT) dated 01-03-2007*
- Manufacturer opting for whole exemption from Central Excise duty under any specific notification shall be required to pay CENVAT credit on input, inputs contained in work-in-progress and final products lying in stock as on the date exercise of such option. Similarly in case of service provider opting for exemption from whole of service tax shall be required to pay CENVAT credit on input and input services lying in stock and taxable services pending to be provided respectively as on the date of exercise of such option. The balance unutilized CENVAT credit shall be lapsed in relation to such manufacturer or service provider. *Effective from 01-03-2007 vide Notification No.10/2007-CE(NT) dated 01-03-2007*
- Vide Notification No. 11/2007-CE (NT) dated 01-03-2007 powers have been given to Chief Commissioner of Central Excise to specify Commissioner of Central Excise or Commissioner of Central Excise (Appeal) for adjudication of show cause notices. Hitherto such powers were vested with the Central Board of Excise & Customs.
- Hitherto in terms of Rule 5 of the Central Excise Rules read with Notification No. 5/2006-CE(NT) dated 14-03-2006, an assessee was required to submit copy of shipping bill or bill of export along with refund application and various other relevant documents. Submission of such shipping bill was causing undue hardship for the assessee. Vide Notification No. 13/2007-CE (NT) dated 01-03-2007 photocopy of shipping bill or bill of export duty attested by the Customs offer has been made as an option to facilitate smooth processing of refund claim.
- An amendment has been proposed whereby relevant date for filing of refund claim in relation to refund arising as a consequence of judgment, decree, order or direction of Appellate Authority, Appellate Tribunal or Court would be the date of such order. *effective from date when the finance bill receive the ascent of the President of India.*