

Budget 2016

Indirect Tax Proposals

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Some Major Amendments

- ▶ Cenvat Credit Rules, 2004
- ▶ The Indirect Tax Dispute Resolution Scheme, 2016
- ▶ Central Excise
- ▶ Customs
- ▶ Infrastructure Cess

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CENVAT Credit (effective 1 April 2016)

Rationalization

- ▶ Capital goods - specified wagons, office equipment - credit available
 - Deletion of "but does not include any equipment or appliance used in an office" - impact?
 - Computers ? Printers? Chairs?
 - Only office within the factory premises or located elsewhere? Dichotomy vis-à-vis service provider ?
- ▶ 'Capital goods' of specified threshold (Rs.10,000 per piece) reclassified as 'inputs' ? Reason?
 - TRU Letter says not to subject to 50% restriction

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CENVAT Credit...

- ▶ Sub-rule (5)(b) of Rule 4 – credit of jigs, fixtures, moulds, dies, tools without bringing these to the premises of the manufacturer
 - Alembic Limited 2013 (293) ELT 119
- ▶ Sub-rule (7) of Rule 4 – credit of service tax paid on assignment of right to use natural resource – spread over a period of time
 - Pro-rata?
 - Is service tax is payable?

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CENVAT Credit...

- ▶ Rule 6 – substituted with effect from 01.04.2016 – Effect of substitution?
- ▶ Rule 6(1) – Explanation – exclusion from “service” definition – Impact?
- ▶ Rule 6(2) – maintenance of separate accounts – can it be done today?
- ▶ Rule 6(3)
 - (i) Non exempted goods removed and exempted goods removed and (ii) non-exempted services and exempted services – manufacturer or service provider ?

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CENVAT Credit...

- ▶ Rule 6(3A) – Reversal of credit restricted to common credit only
 - Overcome Thyssenkrupp Industries India (P) Limited 2014 (310) ELT 317
 - Sify Technologies Limited 2014-TIOL-60-CESTAT
- ▶ Rate of interest for delayed reversal of credit– 15 percent
- ▶ Rule 3AA – Failure to exercise option under sub-rule 3 – regularization
 - Mercedes Benz 2015 (40) STR 381
 - Tata Technologies 2016-TIOL-272-CESTAT

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CENVAT Credit...

- ▶ Rule 3B - Banking sector also given the option to reverse credit as per Rule 6(3)
 - ▶ Additionally, pay 50% of the CENVAT credit - Impact?
- ▶ Rule 6(4) - time limit of two years - credit available post that period ?
 - Even if used for exclusively used in manufacture of exempted goods?
- ▶ Rule 6(7) - outward transportation of goods from India - not hit by Rule 6
 - Exempted service - does not include a service by way of transportation of goods from India to a place outside India?

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CENVAT Credit...

- ▶ Rule 7 – outsourced manufacturing unit – defined
- ▶ Credit accumulated till 31.03.2016 shall not be transferred to outsourced manufacturing unit
 - Overcome Sunbell Alloys Co. 2014 (34) STR 597 or vindicate view of CESTAT?
- ▶ Credit attributable to a particular unit shall be distributed to that unit only;
- ▶ Common credit to respective units only;
- ▶ Credit attributable to all units shall be distributed to all units;

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CENVAT Credit...

Other changes

- ▶ Rule 7B - Manufacturers with multiple factories - now permitted to transfer and avail credits for inputs stored in a common warehouse
- ▶ Rule 9(1)(a) - Credit now allowed to be availed on an invoice issued by a service provider for clearance of goods (inputs and capital goods as such)
- ▶ Provisions with regard to utilisation based on

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Indirect Tax Dispute Resolution Scheme, 2016 (1 June 2016)

- ▶ Applicable to Customs, Excise and Service tax
- ▶ Clause 209 to 215 of the Bill
- ▶ Dispute pending before Commissioner (Appeals) for cases of tax/duty up to Rs.50 lakhs

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Indirect Tax Dispute Resolution Scheme, 2016...

- ▶ Declaration – acknowledgment – payment of tax, interest and 25% penalty within 15 days from the date of receipt of acknowledgment – what happens if time limit exceeded?
 - Bharti Telecom Limited 2001 (134) ELT 327 (SC)
- ▶ Consequence – any amount paid “shall not be refunded”
- ▶ Rejection ? Competent ? Discretion?

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Central Excise

To incentivize 'Make in India', excise duty rates reduced on inputs relating to:

- ▶ Information technology hardware
 - Inputs, parts and components, subparts for manufacture of charger / adapter, battery and wired headsets / speakers of mobile phones
 - Parts and components, subparts for manufacture of routers, broadband modems, set-top boxes for gaining access to internet, set top boxes for TV
- ▶ Renewable Energy
 - Carbon pultrusion used for manufacture of rotor blades and intermediates, parts and sub-parts of rotor blades for wind operated electricity generators
 - Solar lamp

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Central Excise

To incentivize 'Make in India', excise duty rates reduced on inputs relating to: (contd.)

- ▶ Maintenance, repair and overhaul (MRO) of aircrafts
 - Tools and tool kits when procured by MROs for maintenance, repair, and overhauling
- ▶ Machinery
 - Electric motor, shafts, sleeve, chamber, impeller, washer required for the manufacture of centrifugal pump
- ▶ Food processing
 - Refrigerated containers
- ▶ Fertilizers
 - Micro-nutrients which are covered under Sr No 1(f)

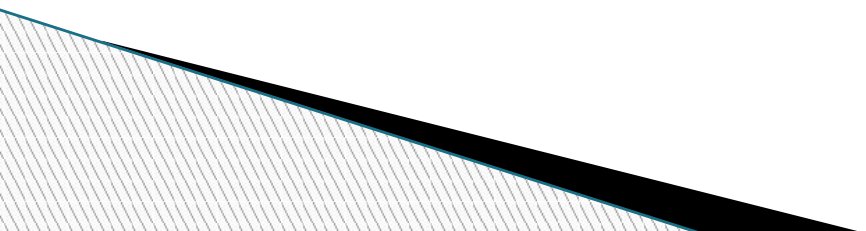
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Central Excise ...

- ▶ Excise duty levied on branded ready made garments
 - 2% (without cenvat) or 12.5% (with CENVAT)
 - Retail Sale price over Rs.1,000/-
 - Tariff value revised from 30% to 60% of RSP
- ▶ Levy not attracted to retail tailoring establishments – customized – specifications of the customer
 - Fashion Designers ?

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Central Excise

- ▶ Section 11A – normal period of limitation extended to two years
 - ▶ Similar amendment under section 28
 - ▶ Service Tax – Section 73 – extended upto 30 months i.e. 2 and half years?
 - ▶ Justified?
 - ▶ Policy and intention to reduce litigation ?
 - ▶ Allures to incompetency and lack of accountability?
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Infrastructure Cess

- ▶ Infrastructure Cess (duty of excise) introduced on motor vehicles
- ▶ Between Nil to 4% depending on length of car, engine capacity – Notification No.1/2016 refers
- ▶ To be paid in cash – Cenvat Credit shall not be utilized for payment of infrastructure cess – Eight proviso to Rule 3(4)
- ▶ Is credit available?

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Customs

General rate of BCD maintained at 10%

- ▶ Rate of CVD and SAD also maintained

To incentivize 'Make in India', rates reduced on inputs of:

- ▶ Information technology hardware
 - Inputs, parts and components, subparts for manufacture of charger / adapter, battery and wired headsets / speakers of mobile phones
- ▶ Polypropylene granules / resins for manufacture of capacitor grade plastic films
- ▶ Textiles - Specified fibres and yarns
- ▶ Mineral fuels and mineral oils

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Customs

To incentivize 'Make in India', rates reduced on inputs of: (contd.)

- ▶ Chemicals and petrochemicals
 - All acyclic hydrocarbons and all cyclic hydrocarbons (other than para-xylene and styrene)
 - Denatured ethyl alcohol (Ethanol)

Maintenance, repair and overhaul (MRO) of aircrafts and ship repairs

- ▶ BCD, CVD and SAD exemption on tools and tool kits imported by MROs for maintenance subject to certification by Directorate General of Civil Aviation
- ▶ Restriction of one year for utilization of duty free imports for maintenance, repair and

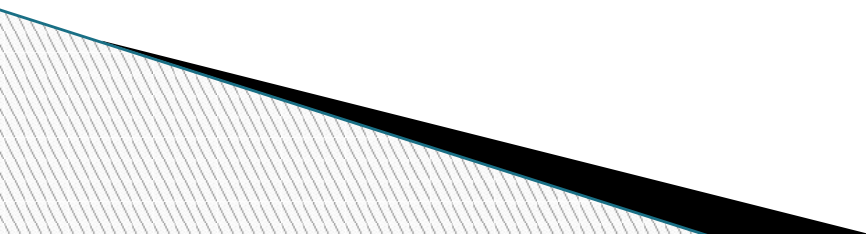
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Customs

Exemptions withdrawn:

- ▶ CVD exemption withdrawn on specified machinery required for construction of roads
- ▶ BCD, CVD and SAD exemption withdrawn on charger / adapter, battery and wired headsets / speakers for manufacture of mobile phone
- ▶ SAD exemption withdrawn on populated PCBs for manufacture of personal computers (laptop or desktop) and mobile phone/tablet computer

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Customs

Exemption / concessional rate of custom duty

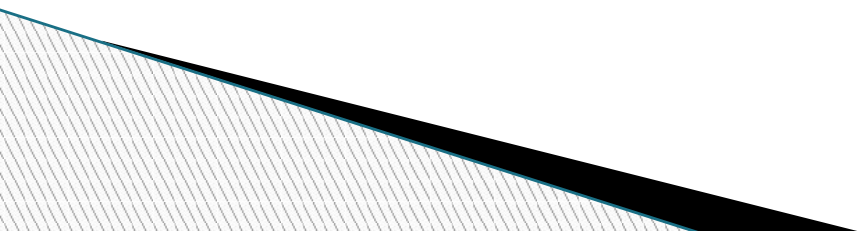
- ▶ BCD and CVD exemption on import of specified goods required for exploration and production of hydrocarbon
- ▶ BCD exemption and 6% CVD on engine for hybrid electric vehicles
- ▶ BCD reduced for refrigerated containers from 10% to 5%
- ▶ BCD reduced for cold chain including pre-cooling unit, packhouses, sorting and grading lines and ripening chambers from 10% to 5%
- ▶ Custom duty exemption on certain dialysis equipment

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Increase in tax rates in Customs, Excise and Cess...

Sr no	Particulars	From	To
Customs			
1	Gold dore bars	8% CVD	8.75% CVD
2	Silver dore	7% CVD	7.75% CVD
3	Plans, drawings and designs	Nil	10%
Excise			
4	Tobacco Products	12.5% or Rs 3375 per thousand whichever is higher	12.5% or Rs 3775 per thousand whichever is higher
5	Tariff value of readymade garments and made up articles of textiles	30% of RSP	60% of RSP

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...Increase in tax rates of Customs, Excise and Cess

Sr no	Particulars	From	To
6	Branded readymade garments and made up of textiles of RSP Rs.1000 or more	Nil (without CENVAT credit) 6%/12.5% (with CENVAT credit)	2% (without CENVAT credit) 12.5% (with CENVAT credit)
7	Aviation Turbine Fuel other than for supply to Scheduled Commuter Airlines from the Regional Connectivity Scheme	8%	14%
8	Sacks and bags of all Plastics	12.5% / 15%	15%
9	Clean Energy Cess	200 per tonne	400 per tonne

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Exemptions withdrawn

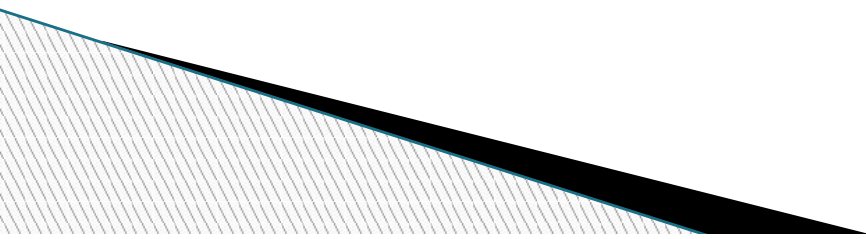
Sr no	Particulars	Rate
Customs		
1	Specified machinery for construction of roads	12.5% - CVD
Excise		
2	Articles of jewellery (other than silver jewellery, or studded with diamonds or precious stones)	1% (without CENVAT credit) 12.5% (with CENVAT credit)
3	Charger / adapter, battery and wired headsets / speakers for supply to mobile phone manufacturers	2% (without CENVAT credit) 12.5% (with CENVAT credit)

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Q & A



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Thank You

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