

## Excise

Amendment of section 3.	<b>114.</b> In the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in section 3, in sub-section (1),—	1 of 1944.
	(a) in the proviso,—	
	(i) in clause (i), for the words “free trade zone”, the words “free trade zone or a special economic zone” shall be substituted;	5
	(ii) in clause (ii), for the words “allowed to be sold in India”, the words “brought to any other place in India” shall be substituted;	
	(b) in <i>Explanation 2</i> , after clause (ii), the following clause shall be inserted, namely:—	
	‘(iii) “special economic zone” means a zone which the Central Government may, by notification in the Official Gazette, specify in this behalf.’.	10
Omission of section 3A.	<b>115.</b> Section 3A of the Central Excise Act shall be omitted.	
Amendment of section 5A.	<b>116.</b> In section 5A of the Central Excise Act, in sub-section (1),—	
	(a) in the proviso,—	
	(i) in clause (i), for the words “free trade zone”, the words “free trade zone or a special economic zone” shall be substituted;	15
	(ii) in clause (ii), for the words “allowed to be sold in India”, the words “brought to any other place in India” shall be substituted;	
	(b) in the <i>Explanation</i> , for the words ‘“free trade zone”’, the words ‘“free trade zone”, “special economic zone”’ shall be substituted.	20
Amendment of section 11A.	<b>117.</b> In section 11A of the Central Excise Act, after sub-section (2), the following shall be inserted, namely:—	
	‘(2A) Where any notice has been served on a person under sub-section (1), the Central Excise Officer,—	
	(a) in case any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, where it is possible to do so, shall determine the amount of such duty, within a period of one year; and	25
	(b) in any other case, where it is possible to do so, shall determine the amount of duty of excise which has not been levied or paid or has been short-levied or short-paid or erroneously refunded, within a period of six months,	30
	from the date of service of the notice on the person under sub-section (1).	
	(2B) Where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person, chargeable with the duty, may pay the amount of duty before service of notice on him under sub-section (1) in respect of the duty, and inform the Central Excise Officer of such payment in writing, who, on receipt of such information shall not serve any notice under sub-section (1) in respect of the duty so paid:	35
	Provided that the Central Excise Officer may determine the amount of short payment of duty, if any, which in his opinion has not been paid by such person and, then, the Central Excise Officer shall proceed to recover such amount in the manner specified in this section, and the period of “one year” referred to in sub-section (1) shall be counted from the date of receipt of such information of payment.	40
	<i>Explanation 1.</i> —Nothing contained in this sub-section shall apply in a case where the duty was not levied or was not paid or was short-levied or was short-paid or was erroneously refunded by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty.	45
	<i>Explanation 2.</i> —For the removal of doubts, it is hereby declared that the interest under section 11AB shall be payable on the amount paid by the person under this sub-section and also on the amount of short-payment of duty, if any, as may be determined by the Central Excise Officer, but for this sub-section.	50
	(2C) The provisions of sub-section (2B) shall not apply to any case where the duty had become payable or ought to have been paid before the date on which the Finance Bill, 2001 receives the assent of the President.’.	

**118.** Section 11AA of the Central Excise Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

Amendment  
of section  
11AA.

“(2) The provisions of sub-section (1) shall not apply to cases where the duty becomes payable on and after the date on which the Finance Bill, 2001 receives the assent of the President.”.

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**119.** In section 11AB of the Central Excise Act,—

Amendment of  
section 11AB.

(a) for sub-section (1), the following shall be substituted, namely:—

“(1) Where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person who is liable to pay the duty as determined under sub-section (2), or has paid the duty under sub-section (2B), of section 11A, shall, in addition to the duty, be liable to pay interest at such rate not below eighteen per cent. and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the first date of the month succeeding the month in which the duty ought to have been paid under this Act, or from the date of such erroneous refund, as the case may be, but for the provisions contained in sub-section (2), or sub-section (2B), of section 11A till the date of payment of such duty:

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Provided that in such cases where the duty becomes payable consequent to issue of an order, instruction or direction by the Board under section 37B, and such amount of duty payable is voluntarily paid in full, without reserving any right to appeal against such payment at any subsequent stage, within forty-five days from the date of issue of such order, instruction or direction, as the case may be, no interest shall be payable and in other cases the interest shall be payable on the whole of the amount, including the amount already paid.”;

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(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The provisions of sub-section (1) shall not apply to cases where the duty had become payable or ought to have been paid before the date on which the Finance Bill, 2001 receives the assent of the President.”.

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**120.** In section 11BB of the Central Excise Act, for the words “not below ten per cent.”, the words “not below five per cent.” shall be substituted.

Amendment of  
section 11BB.

**121.** In section 35 of the Central Excise Act, in sub-section (1),—

Amendment of  
section 35.

(a) for the words “within three months”, the words “within sixty days” shall be substituted;

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(b) for the proviso, the following proviso shall be substituted, namely:—

“Provided that the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days.”.

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**122.** In section 35A of the Central Excise Act,—

Amendment of  
section 35A.

(a) in sub-section (3), for the portion beginning with the words and brackets “The Commissioner (Appeals) may” and ending with the words “additional evidence, if necessary:”, the following shall be substituted, namely:—

“The Commissioner (Appeals) shall, after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against.”;

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(b) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) The Commissioner (Appeals) shall, where it is possible to do so, hear and decide every appeal within a period of six months from the date on which it is filed.”.

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**123.** In section 35E of the Central Excise Act, in sub-section (1), after the words “direct such Commissioner”, the words “or any other Commissioner” shall be inserted.

Amendment of  
section 35E.

**124.** In section 35F of the Central Excise Act, after the proviso, the following proviso shall be inserted, namely: —

Amendment of  
section 35F.

“Provided further that where an application is filed before the Commissioner (Appeals) for dispensing with the deposit of duty demanded or penalty levied under the first proviso, the Commissioner (Appeals) shall, where it is possible to do so, decide such application within thirty days from the date of its filing.”.

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**125.** After section 38 of the Central Excise Act, the following section shall be inserted and shall be deemed to have been inserted on and from the 28th day of February, 1944, namely:—

Insertion of new  
section 38A.

Effect of amendments, etc., of rules, notifications or orders.

“38A. Where any rule, notification or order made or issued under this Act or any notification or order issued under such rule, is amended, repealed, superseded or rescinded, then, unless a different intention appears, such amendment, repeal, supersession or rescinding shall not—

(a) revive anything not in force or existing at the time at which the amendment, repeal, supersession or rescinding takes effect; or 5

(b) affect the previous operation of any rule, notification or order so amended, repealed, superseded or rescinded or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any rule, notification or order so amended, repealed, superseded or rescinded; or 10

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed under or in violation of any rule, notification or order so amended, repealed, superseded or rescinded; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, 15

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the rule, notification or order, as the case may be, had not been amended, repealed, superseded or rescinded.”.

Validation of certain action taken.

**126.** Any action taken or anything done or omitted to be done or purporting to have been taken or done or omitted to be done under any rule, notification, or order made or issued under the Central Excise Act, or any notification or order issued under such rule at any time during the period commencing on and from the 28th day of February, 1944 and ending with the day, the Finance Bill, 2001 receives the assent of the President shall be deemed to be and to always have been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made by section 125 of the Finance Act, 2001 had been in force at all material times and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,— 20 25

(a) any action taken or anything done or omitted to be done, during the said period in respect of any excisable goods under any of such rule, notification or order, shall be deemed to be and shall be deemed to always have been, as validly taken or done or omitted to be done as if the amendment made by section 125 of the Finance Act, 2001 had been in force at all material times; 30

(b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any excisable goods under any of such rule, notification or order, and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by section 125 of the Finance Act, 2001 had been in force at all material times; 35

(c) recovery shall be made of all such amounts of duty or interest or penalty or fine or credit of duty in respect of inputs or capital goods or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendment made by section 125 of the Finance Act, 2001 had been in force at all material times.

*Explanation.*—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force. 40

#### Central Excise Tariff

Amendment of Act 5 of 1986.

**127.** In the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act),—

(a) the First Schedule shall be amended in the manner specified in the Fourth Schedule; 45

(b) the Second Schedule shall be amended in the manner specified in the Fifth Schedule.

Amendment of Act 58 of 1957.

**128.** The Additional Duties of Excise (Goods of Special Importance) Act, 1957 (hereinafter referred to as the Additional Duties of Excise Act), shall be amended in the manner specified in the Sixth Schedule.

National Calamity Contingent duty.

**129.** (1) In the case of goods specified in the Seventh Schedule, being goods manufactured or produced, there shall be levied and collected for the purposes of the Union, by surcharge, a duty of excise, to be called the National Calamity Contingent duty (hereinafter referred to as the National Calamity duty), at the rates specified in the said Schedule. 50

(2) The National Calamity duty chargeable on the goods specified in the Seventh Schedule shall be in addition to any other duties of excise chargeable on such goods under the Central Excise Act, 1944 or any other law for the time being in force. 1 of 1944. 55

(3) The provisions of the Central Excise Act, 1944 and the rules made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty, shall, as far as may be, apply in relation to the levy and collection of the National Calamity duty leviable under this section in respect

of the goods specified in the Seventh Schedule as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules, as the case may be.