

T.R. Rustagi
Joint Secretary(TRU)
Tel.No.3012687

D.O.F.No.334/1/2002-TRU

Dear Commissioner,

Sub: Central Excise, Customs & Service Tax – Budget proposals for 2002-2003

The Finance Minister has introduced the Finance Bill, 2002, in the Lok Sabha on the 28th February, 2002. Salient features of the proposals regarding excise, customs and service tax are indicated below:

(1) Excise

1. Rate structure

1.1 The ad-valorem excise duty structure has been further rationalized with more items added in the category of 16% CENVAT and number of items removed from the SED list.

1.2 The remaining deviations from the standard CENVAT rate of 16% can now be counted on fingertips.

1.3 The excise duty on the following items has been increased from 8% to 16%:

- (a) LPG
- (b) Kerosene Oil
- (c) Auto CNG
- (d) Diesel engines upto 10 HP

1.4 Special Excise Duty has been abolished on the following items. Now they will be charged to CENVAT only @ 16%

- (a) Cosmetics and toilet preparations
- (b) White cement and other cements
- (c) Travel kits for personal use
- (d) Yachts and other vessels and floating structures
- (e) Arms and ammunitions
- (f) Manufactures of furskin and artificial fur

1.5 With the above changes the rate of 8% is now confined to cotton yarn. The Special Excise Duty of 16% is also confined to a few items, being, Polyester Filament Yarn, Motor Cars, Multi Utility Vehicles, Soft drinks and their concentrates, Tyres for replacement, air-conditioners, pan masala, chewing tobacco and miscellaneous tobacco products.

1.6 An important change relates to textiles. While excise duty on cotton yarn continues at 8%, the exemption applicable to cotton yarn cleared in hank form has been withdrawn w.e.f. 1.3.2002.

1.7 The rate of excise duty on processed fabrics, made-ups and readymade garments has been fixed at 12% which will comprise of 8% CENVAT and 4% AED (in lieu of sales tax) in the case of fabrics.

1.8 Option has been given to manufacturers of grey fabrics, processors of knitted cotton fabrics and manufacturers of knitted garments to pay excise duty at the rate of 12%. The manufacturers in these sectors

may be properly informed of excise formalities and procedure and the field staff may give them all necessary assistance in this regard. The option is to be exercised by a manufacturer of these products for all his clearances and it is not permissible that on some clearances he would like to pay duty and remove the others without payment of duty.

1.9 Another important change that has been made relates to the excise duty exemption on hand-processed fabrics. Under this exemption, hand processors (who do not undertake the process of bleaching, dyeing or printing with the aid of power or steam) were permitted to use power in respect of 12 specified processes in the case of cotton fabrics and 7 specified processes in the case of man-made fabrics. This exemption has been modified and henceforth use of power will be permitted only for 3 processes, namely, scouring, hydro-extraction and calendering. If power is used for any other process on the fabrics, they will be liable to pay excise duty on par with other textile processors. Commissioners are requested to conduct a survey on priority basis in this regard to ascertain the number of hand processors who would come under the excise net and the revenue potential from this sector and submit a report by name to me so as to reach within a week's time i.e. 7th March, 2002.

1.10 The optional compounded levy scheme for textile processors has been abolished and these processors will be required to pay duty on ad valorem basis in respect of their production from 1.3.2002 onwards.

1.11 The extent of deemed credit in respect of processed fabrics has been suitably adjusted, having regard to the reduction in the rate of excise duty.

1.12 Excise duty on the following items has been increased from 4% to 8%. The rate of 8% applies without the facility of CENVAT credit. If a manufacturer wishes to avail of CENVAT credit facility, the option to pay excise duty @ 16% continues:

- (a) Tooth brush
- (b) Imitation jewellery
- (c) Powered goggles
- (d) Table and kitchenware of glass
- (e) Black and White TV sets
- (f) Watches and clocks upto Rs.500 per piece
- (g) Electric bulbs upto Rs.20 per piece
- (h) Candles

1.13 Excise duty has been imposed on cigars and cheroots and cigarillos at the rate of 16% adv. and on a number of specified items at the rate of 4%. The rate of 4% applies without the facility of CENVAT credit. Manufacturers wishing to avail of CENVAT credit facility would have to pay excise duty at the rate of 16%. The items on which excise duty at 4% has been imposed now are mentioned in notification No.10/2002-CE dated 1.3.2002.

1.14 The rate of excise duty on petrol has been modified. It is now composed of 32% ad-valorem plus surcharge of Rs.6 per litre. The government has decided to dismantle the Administrative Price Mechanism. The oil companies which are required to pay excise duty would be calculating the revised assessable value for payment of excise duty. It may kindly be ensured that no hold up in the clearances of motor spirit or other petroleum products are caused. For any clarification on the assessable value the oil company may be consulted to provide details.

1.15 The surcharge of Rs. 5.25 per litre will apply for motor spirit which is doped with ethanol. Notification in this regard would be issued in due course of time.

1.16 Rate of excise duty on HSD has been reduced from 20% to 16%. Here also the oil companies would be furnishing the assessable value of HSD.

1.17 The rate of cess applicable to crude petroleum oil has been increased from Rs.900 to Rs.1800 per MT. The Ministry of Petroleum & Natural Gas will be issuing the necessary notification which is effective from 1.3.2002.

1.18 The Commissioners may kindly study the impact of the revised duty structure on MS and HSD on revenue. In other words, a detailed analysis on this may be sent to me by 8th March, 2002, separately for MS and HSD.

1.19 Refineries located in North East will pay excise duty at half of each of the excise duty rates applicable to petroleum products. This will also apply to Numaligarh Refinery. It may also be noted that an amendment has been made to notification No.33/99 dated 8/7/99 to make it clear that excise duty exemption under this notification does not apply to petroleum products. Necessary action may be taken with respect to the past period and the dues recovered after the Finance Bill, 2002, receives the assent of the President. Any decision at the departmental level or appeal pending at any stage would now be governed by this retrospective amendment.

1.20 SSI exemption on granite has been withdrawn. Granite would be charged to CENVAT at the rate of 16% w.e.f. 1.3.2002 and no benefit of SSI exemption is available.

1.21 The scheme of SSI scheme has been extended to air guns, air rifles, air pistols which are not in the nature of arms and are exempt from the provisions of Arms Act. However, for the month of March the extent of exemption shall be available on clearances up to Rs.10 lakhs.

1.22 The scheme of MRP based assessment has been extended to the following items:

1.23

1	Preparations of other sugars (1702.21 & 1702.29)
2	Sugar confectionery (including white chocolate), not containing cocoa (1704.90)
3	Colouring matter and preparations based on colouring matter (3206.90)
4	Dyes and other colouring matter put up in forms or small packings of a kind used for domestic or laboratory purposes (3212.90)
5	Artists', students' or signboard painters' colours, modifying tints, amusement colours and the like, in tablets, tubes, jars, bottles, pans or in similar forms or packings (3213.00)
6	Resin cements, caulking compounds and other mastics; painters' fillings, non-refractory surfacing preparations for facades, indoor walls, floors, ceilings or the like (3213.00)
7	Video recording/reproducing apparatus, whether or not incorporating a video tuner (85.21)
8	Switches, relays, fuses, surge suppressors, plugs, sockets, lamp holders, junction boxes, etc. for a voltage not exceeding 1000 V (8536.00)
9	Sanitary wares and fixtures (69.08/73.24/7418.90)

1.23 The field officers may kindly advise the assessee manufacturing these items under their charge suitably and the purport of the new assessment, formalities and procedures explained to them.

1.24 There are a few more changes in the nature of exemptions. These are explained in the Explanatory Memorandum that is being sent to you separately.

1.25 The Central Excise Rules and the CENVAT Rules have been re-issued with minor modifications. All notifications issued under the earlier rules would continue to be valid, unless specifically modified or rescinded.

1.26 The Government has taken enabling powers to notify an activity/process as “manufacture” by notification. This provision will come into force after the Finance Bill receives the assent of the President.

1.27 Another important change is that the Government will now be permitted to explain or clarify the scope of an exemption by issue of an explanation by a notification, which will be effective from the date of the first exemption notification itself. This power will also be available to the Government after the Finance Bill receives the assent of the President.

(II) Customs

2.1 The peak rate of customs duty has been reduced from 35% to 30%.

2.2 The basic customs duty on non-ferrous metals, copper, zinc and lead has been reduced from 35% to 25%. However, the duty on aluminium and tin has been reduced to 15%.

2.3 Another important change is that the tariff rate on items falling under Chapter 72 with the exception of pig iron and ferro-alloys has been increased to 40%. The tariff rate will be the effective rate for seconds and defectives of products falling under Chapter 72. For other products, the effective rate will be 30% or less as prescribed in notification No. 21/2002.

2.4 The rate of basic customs duty on kerosene imported for supply under the PDS scheme has been increased from 5% to 10%. Basic customs duty on other kerosene has been reduced from 35% to 20%. There is no change in the basic customs duty applicable to other petroleum products.

2.5 Effective rate of customs duty on tea and coffee has been increased to 100%.

2.6 Basic customs duty on poppy seeds, pepper, cloves and cardamom has been increased to 70%.

2.7 Similarly, the basic customs duty on natural rubber falling under heading No. 4001.10 has been increased to 70%.

2.8 The basic customs duty on pulses has been increased from 5% to 10%. They will, however, continue to be exempt from Special Additional Duty.

2.9 An important change is with regard to non-edible oils. While the effective rate of basic customs duty will be 30%, the fatty acid criterion has been introduced for the applicability of this rate. Henceforth, the 30% rate will apply only to such oils in which the free fatty acid is 20% or more. The importers may be asked to declare this aspect and necessary action taken to satisfy that the oil contains 20% or more free fatty acid.

2.10 Basic customs duty has been imposed on certain items for the first time. Similarly, SAD has been imposed on other items. The details of these changes are indicated in the notifications and the Explanatory Memorandum.

2.11 An important change is that IAAT has been exempted for flights from and to any of the North Eastern States.

2.12 Yet another significant feature on the customs changes is that the limit under the Transfer of Residence concession has been increased from Rs.1.50 lakhs to Rs.5 lakhs. The limit under “mini” TR has been increased from Rs.30,000 to Rs.75,000. A number of items have also been added which can now be imported at the rate of 30% which is the rate for these items imported under Transfer of Residence.

2.13 The rates of duty applicable to wines and hard liquors has been modified . The basic customs duty on hard liquors has been reduced from 210% to 182%. Basic customs duty on wines continues to be 100%. The rate of CVD has also been modified. There are only two slabs now, one for items upto US \$ 25 per case and the other for items above US \$ 25 per case. The CVD rate has been fixed at 75% for the first slab and 50% for the second slab. SAD will continue to apply.

2.14 As in the case of excise, Government will now be permitted to issue explanation to an exemption notification to clarify the scope of the notification. This power will also be available to the Government after the Finance Bill receives the assent of the President.

2.15 Other important legislative changes made through the Finance Bill that will come into effect with the assent of the President are as follows:

- (i) Time period for disposal of appeals by the Appellate Tribunal has been laid down as three years from the date of filing of the appeal, where it is possible to do so. It has also been provided that where a stay order has been issued the final order shall be passed within 180 days of the stay order, failing which the stay shall stand vacated.
- (ii) Period for review of adjudication orders by the Board or a Commissioner has been reduced, where possible, to six months, and in any case within one year.
- (iii) Section 14 of the Customs Act amended to empower the Board to fix/revise tariff values, and to fix exchange rate for Customs purposes.
- (iv) Section 47(2) of the Customs Act of the Customs Act amended to increase period for payment of duty without interest from two days (excluding holidays) to five days (excluding holidays).
- (v) Section 61 of the Customs Act amended to empower Commissioner to extend period of warehousing in respect of EOUs without limit.

(III) Service Tax

3.1 The Finance Bill contains the proposal to introduce Service Tax on the following new Services:

- (i) life insurance services including insurance auxiliary service relating to life insurance,
- (ii) cargo handling services (excluding export cargo),
- (iii) storage and warehouse services (excluding the service in respect of agriculture produce and cold storage),
- (iv) event management services,
- (v) rail travel agent,
- (vi) health clubs and fitness centres,
- (vii) beauty parlours,
- (viii) fashion designers services
- (ix) cable operators;
- (x) Drycleaning services.

3.2 Corporate bodies that provide taxable service in respect of banking and financial services shall also be liable to pay the Service Tax.

3.3 These changes will come into force from the date that will be notified after the Finance Bill, 2002, is passed.

3.4 In the meanwhile, I request that you and your officers may kindly go through the definitions and other aspects of the new services carefully. Any doubts, comments or observations requiring clarification may kindly be sent to me as early as possible so that they can be taken care of while we issue comprehensive instructions before the new services are brought into force.

3.5 Information regarding the likely number of assesseees from trade associations or directories may be gathered and a report on this aspect may kindly be sent to me within one month.

3.6 The definition of broadcasting service has been modified with retrospective effect so as to put the intention clearly. The assesseees who have not paid the service tax on broadcasting services may be appraised

of these changes and they may be informed that the dues not paid by them are recoverable. Necessary action in this regard may be taken.

3.7 The definition of banking company has also been modified, taking the definition from the RBI Act. This is only to clarify that the State Bank of India and its subsidiaries are required to pay the service tax without any doubt.

3.8 The Service Tax exemption relating to hotels has been extended upto 31.3.2003.

3.9 Service Tax will now cover number of new assesseees. It is important and desirable that the Commissioners apprise the potential assesseees of the basic features of Service Tax scheme, its procedure and obligations well in advance. It would be useful if some seminars and meetings with the assesseees are conducted in the Commissionerates to explain the features of Service Tax to the potential assesseees.

(IV) Expert Committee

4.1 The Finance Minister has also announced that an Expert Committee would be set up to study the indirect tax administration and make recommendations on the administrative aspect of indirect taxes. The Constitution of the Committee and its terms of reference would be announced by the Government in due course.

(V) Price Data

5.1 In a number of cases excise duty rates have been altered. It has been decided to collect data on the price behaviour and revenue implications. The information about the prices may kindly be supplied in the proforma indicated in the appendix to this letter. You may kindly ensure that the information furnished is accurate since reliance will be placed on this data at the time of discussion of the Finance Bill, 2002.

5.2 The information regarding price data may be sent to the Directorate of Statistics and Intelligence, Customs and Central Excise, DLF Complex, Greater Kailash II, New Delhi- 48 (with copies to Tax Research Unit). The first and second report should be sent by the 10th March, 2002 and thereafter at intervals as indicated in the Appendix till further instructions in this regard. Apart from sending these reports, you are also requested to report on the position regarding the pre-budget prices and the post-budget prices in the week immediately following the budget in respect of other commodities affected by the Budget. For each of the item, you may select one important market. The first report in this regard may be send to me urgently so as to reach latest by the 10th March, 2002.

6. There are some other changes in the Finance Bill or through the notifications. I request that you may kindly write to me urgently on any errors and omissions or any doubts or difficulties requiring clarification.

7. In the Explanatory Memorandum we have asked for special reports in few cases. They may kindly be arranged to be sent on time after careful scrutiny.

8. Before I end, I would like to convey to you and all your officers our gratitude and sincere thanks for the suggestions received in response to our pre-budget request and during the course of the year. We have been immensely benefitted by them.

With kind regards,

Yours sincerely,

To
All Commissioners of Customs and Central Excise

(T.R.Rustagi)

PRICE DATA

Report for the period

Commodity

Chapter No.

Date	Description of goods	Heading/sub-heading No.	Ex-factory price (Rs.)	Excise duty paid	Wholesale price inclusive of all taxes (Rs.)	Retail Price	Remarks
28-2-2002							
7-3-2002							
15-3-2002							
22-3-2002							
29-3-2002							
5-4-2002							
12-4-2002							
19-4-2002							
26-4-2002							

Notes:

1. Description should be specific and should indicate the brand name and unit of sale, e.g. 'X' brand tooth-paste-weight 'Y' grams. Subsequent report should refer to this brand name only. New brands, if any, can be added in any subsequent report by mentioning similar details.
2. Information should be confined to goods manufactured in the jurisdiction of the Commissionerate. Retail price should be obtained from market survey along with printed retail price list, if any.
3. In remarks column, kindly indicate in broad terms the average percentage of input duty which would be available as credit
4. First report should give the position as on 28-2-2002 and 7-3-2002 and second report should give position as on 15-3-2002 and so on. The first report should be sent so as to reach latest by 10-3-2002. Subsequent reports should give the position as on 15-3-2002, 22-3-2002, 29-3-2002, 5-4-2002, 12-4-2002, 19-4-2002 and 26-4-2002 and should reach within 5 days after the expiry of the specified date.
5. While submitting the reports for the period subsequent to 15-3-2002, the details submitted in the earlier reports may kindly be repeated. To illustrate, while submitting the reports for the period ending on, say, 29-3-2002, the detail given in the reports for 7-3-2002, 15-3-2002 and 22-3-2002 should also be repeated.
6. Copy of the reports meant for TRU should be sent by name to Shri. Ajay Mishra, Senior Research Officer, Tax Research Unit, Room No. 146, North Block, New Delhi – 110 001.
7. Reports should be in respect of the items specified below:-
 1. Petrol
 2. High Speed Diesel Oil
 3. Kerosene
 4. LPG
 5. Diesel engines upto 10 H.P

6. Cotton hank yarn
7. Cosmetics and Toilet preparations
8. White Cement
9. Cotton fabrics, processed
10. Man-made fabrics, processed
11. Made-up textile articles
12. Ready made garments
13. Cycles and cycle rickshaws
14. Tyres for cycles and cycle rickshaws
15. Medical equipment
16. Registers, account books
17. Umbrellas, Sun umbrellas
18. Mosaic tiles
19. Light weight (solid or hollow) concrete building blocks
20. Roofing tiles
21. Laboratory glassware
22. Steel utensils
23. Copper/Brass utensils
24. Aluminium utensils
25. Knives, spoons, forks, ladles
26. Power driven pumps for handling water
27. Recorded audio cassettes
28. Any other commodity which you may consider as significant.