

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE**

Gautam Ray  
Joint Secretary (TRU)  
Tel : 23092687  
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D.O.F.No.334/3/2004-TRU  
New Delhi, dated the 8<sup>th</sup> July, 2004

Dear Chief Commissioner/Commissioner,

The Finance Minister has introduced the Finance (No.2) Bill, 2004 in the Lok Sabha on 8<sup>th</sup> July, 2004. A number of changes in excise, customs and service tax have been made through clauses 61 to 85 of the Finance Bill and through notifications Nos. 66/2004-Customs to 71/2004-Customs, 23/2004-CE to 36/2004-CE, 11/2004-CE (NT) to 13/2004-CE (NT) and 5/2004-ST to 10/2004-ST, all dated 9<sup>th</sup> July 2004. Details of the changes are available in the Explanatory Notes (for full details, the relevant provisions of the Finance (No.2) Bill, 2004 and the notifications may be referred to). The salient features of the proposals in respect of excise, customs and service tax are indicated below:

**(I) Education Cess**

2.1 An Education cess at the rate of 2% of the aggregate duties of customs, excise and service tax has been imposed. While the cess will apply in respect of customs and excise duties with effect from 9.7.2004, in respect of service tax, it will come into effect only on enactment of the Finance Bill.

2.2 In respect of excise, the cess will be 2% of the aggregate duties of excise leviable on the goods. The following illustration explains how the cess should be calculated.

*An item attracts excise duty of 16%. With education cess, the total incidence of excise duty will be 16.32%. The Cess of 0.32% will be available as credit, but only for payment of education cess leviable on final products as provided for in the CENVAT Credit Rules.*

2.3 In the case of customs, the cess will be 2% of the aggregate duty of customs (but excluding safeguard duty under section 8B and 8C, countervailing duty under section 9 and Anti Dumping Duty under section 9 A of the Customs Tariff Act). Items attracting customs duty at bound rates, for example, under the IT Agreement or the Indo-US/Indo-EU Textile Agreement have been exempted from the cess. The following illustration explains how the cess should be calculated and credit will be available.

*For calculating the customs cess, let landed value of an item be Rs.1000. The duty will be worked out as under:*

<i>Landed Value (c.i.f.)</i>	<i>Rs.1000</i>
<i>Customs Duty @ 20%</i>	<i>Rs. 200</i>
<i>Landed Cost</i>	<i>Rs.1200</i>
<i>CVD @ 16% + 2% Education Cess thereon</i>	<i>Rs.195.84 [192 + 3.84]</i>

*Total Customs duty*

*Rs.395.84*

***Total Education Cess will be Rs.7.92 (i.e. 2% of Rs. 395.84).***

*While credit of total CV duty of Rs.195.84 will be available, the cess component of Rs.3.84 would be available as credit only for payment of education cess on final product.*

## **(II) CUSTOMS**

3. The salient features of the changes on customs duties are:

### **3.1 Metals:**

3.1.1 Customs duty has been reduced from 20% to 15% on certain metals, namely, Ferro alloys, Stainless steel and other alloy steel (excluding seconds and defectives), Copper, Lead, Zinc, Tungsten, Magnesium, Cobalt, Cadmium, Titanium, Other base metals of chapter 81. Customs duty has also been reduced from 15% to 10% on all primary, semi-finished and finished forms of iron and steel like ingots and billets, sponge iron, hot rolled and cold rolled bars/rods/coils of non-alloy steel (other than seconds and defectives) of heading Nos. 7201 and 7203 to 7217.

### **3.2 Minerals:**

3.2.1 Customs duty has been reduced from 20% to 15% on certain minerals, namely, Graphite, Asbestos, Mica, Fluorspar and Felspar, Gypsum, Other minerals of Chapter 25 excluding a few items like marble, granite.

### **3.3 Refractories and inputs for refractories:**

3.3.1 Customs duty has been reduced from 20% to 15% on refractories and raw materials for refractories namely, natural graphite powder, aluminous cement, calcined alumina, boron carbide, reactive alumina, silicon metal (99% purity), micro/fumed silica, brown fused alumina, fused zirconia, silicon carbide, sodium hexameta phosphate, phenolic resin, sintered/tabular alumina and fused silica.

3.4 **Ashes and residues:** Customs duty has been reduced from 20% to 15% on zinc spelter/dross and copper mill scale.

3.5 **Catalysts:** Customs duty has been reduced from 20% to 15% on catalysts of heading 38.15.

3.6 **CVD exemption:** CVD exemption on specified items has been withdrawn.

### **3.7 Agriculture:**

3.7.1 Customs duty on palm oils (other than crude palm oil) has been increased from 70% to 75%.

3.7.2 Concessional rate of 5% customs duty + Nil CVD, presently available to specified plantation machinery has been extended to additional machinery items namely, coffee packaging machine, coffee bagging machine, rotary shifter, lateral cyclon winnower and dividing bypass. CVD has now been exempted by way of excise duty exemption. These exemptions would be available upto 30.4.2005.

### 3.8 **Health**

3.8.1 Rehabilitation aids such as talking books, talking calculators, talking thermometers, braille writers, braille computer terminals have been exempted from customs duty. CVD has been exempted by way of excise duty exemption.

3.8.2 Phonographs and cassette players for playing the talking books, magnetic tapes and cassettes for production of talking books, electronic reading machines, television enlargers and optical aids have been fully exempted from customs duty and CVD, if imported by an institution for the blind and deaf.

3.8.3 The conditions prescribed for availing the import duty exemption on tangible appliances for blind, hearing aids etc. when imported by an institution for the blind and deaf that the goods should have either been gifted or purchased out of donations, have been omitted.

3.8.4 Customs duty has been exempted on instruments and implants for physically handicapped patients, joint replacement, spinal instruments and implants including bone cements, crutches, wheel chairs, walking frames, tricycles, Braillers, artificial limbs and parts thereof.

### 3.9 **Information Technology:**

3.9.1 Customs duty exemption to mobile switching centres presently available to cellular mobile telephone service providers has been extended to such imports by universal access service providers.

3.9.2 Specified raw materials for manufacture of parts of cathode ray tubes and specified capital goods for manufacture of mobile telephone handsets, cathode ray tubes and parts thereof and plasma display panels have been exempted from customs duty.

3.9.3 Customs duty exemption presently available to specified goods for manufacture of telecom grade optical fibres and cables has been extended to some additional specified items.

### 3.10 **Export Promotion:**

3.10.1 Customs duty on platinum has been reduced from Rs. 550 per 10 gram to Rs. 200 per 10 gram.

3.10.2 All rough coloured gem stones (including rubies, emerald and sapphire) have been fully exempted from customs duty.

3.10.3 Concessional rate of customs duty of 5% presently available to specified items for use in leather industry has also been extended to such items designed for use in non-leather footwear industry. These items would be subjected to CVD.

3.10.4 Customs duty on roundabouts, swings, shooting galleries and other fairground amusement of heading 95.08 has been reduced from 20% to 10%.

3.10.5 Customs duty has been exempted on patent leather.

3.11 **Textile Machinery:**

3.11.1 Customs duty on specified textile and garment making machinery has been reduced from 20% to 5%. CVD will be payable in addition. Parts imported for manufacture of such machines would also attract 5% customs duty subject to end-use condition.

3.11.2 Customs duty on specified machinery for silk textile industry has been reduced from 10% to 5%. These machinery would be subject to CVD.

3.12 **Miscellaneous:**

3.12.1 Customs duty on imports of non-edible grade industrial vegetable oils used for manufacture of industrial fatty acids and fatty alcohol has been reduced to 20%, on actual user basis.

**(III) CENTRAL EXCISE**

4. The highlights of the changes in central excise duties are:

4.1 Excise duty has been raised on iron and steel of chapter 72 from 8% to 12%.

4.2 Excise duty of 8% with CENVAT credit has been imposed on contact lenses and playing cards.

4.3 Excise duty on following items has been increased from 8% to 16%, namely, cakes and pastries, plastic insulated ware, vacuum flasks, scented supari, pre-fabricated buildings, Laboratory glassware, Clocks and watches of retail sale price not exceeding Rs.500 per piece (SSI exemption has been extended), monochrome televisions receivers, populated printed circuit boards for monochrome television receivers, imitation jewellery and candles.

4.4 Excise duty on matches made in semi mechanized and mechanized sectors, has been changed from 8% without Cenvat credit, to 16% with credit.

4.5 Excise duty of 16% has been imposed on specified parts of pre-fabricated buildings such as blocks, slabs, concrete beams and stairs and parts of clocks and watches of retail sale price not exceeding Rs. 500 per piece.

4.6 **Relief Measures:**

4.6.1 The retail sale price (RSP) limit for excise duty exemption on footwear has been raised from Rs. 125 to Rs. 250 per pair. The exemption will now be available only if RSP is indelibly marked or embossed on the footwear itself.

4.6.2 Excise duty has been reduced from 16% to 8% on gas stoves of retail sale price not exceeding Rs. 2000 per unit.

4.6.3 The value limit for excise duty exemption on pens and ball point pens (including refills for ball point pens) has been raised from Rs. 100 to Rs. 200 per piece.

4.6.4 Parts of pens and parts of refills for ball point pens have been exempted from excise duty.

4.6.5 Computers have been exempted from excise duty. Stand alone Central Processing Units (CPUs) will also be eligible for the exemption.

4.6.6 Excise duty on non-alcoholic beverages, such as chocolates and malted food drinks, falling under chapters 18 or 19, prepared and dispensed through vending machines, has been exempted.

4.7 **Agriculture:**

4.7.1 Tractors (of heading 87.01) have been exempted from excise duty.

4.7.2 Milking machines and dairy machinery of heading 84.34 have been exempted from excise duty.

4.7.3 Excise duty on branded and packed preparations of meat, fish and poultry has been reduced from 16% to 8%.

4.7.4 Excise duty on food grade hexane has been reduced from 32% to 16%.

4.7.5 Hand tools of heading No. 82.01 have been exempted from excise duty.

#### 4.8 **Textiles:**

4.8.1 The duty structure has been completely revised. There will be mandatory duty only on manmade fibres. The mandatory duty will be as under:

- (a) 24% on polyester filament yarn (including textured yarn)
- (b) 16% on all other filament yarns (including textured yarn) and man made fibres

However, when these duty paid fibres and filament yarns are subjected to any processing in a unit which has not made the basic filament yarn (including textured yarn) or the fibre, there will be an optional exemption. The existing duty of 16% on polyester filament above 750 deniers will also continue.

4.8.2 The Cenvat scheme for textiles has been made optional. There will be a mandatory duty only on man made fibres (artificial and synthetic staple fibres and filament yarns). Except for these duties, textile goods (yarn, fabrics, garment, articles of chapter 50 to 63) will be fully exempt if no credit of duties is taken under the Cenvat Credit Rules.

4.8.3 For those opting to pay duty, and thereby avail of duty credit, the applicable rates of duty for all other goods of chapter 50 to 63 will be:

- (a) 4% for pure cotton textiles including yarn, fabrics, garments, made ups and articles
- (b) 8% for other textiles including yarn, fabrics, garments, made ups and articles

4.8.4 It may be noted that no intimation or permission is needed by any unit either for availing of the exemption or for payment of duty at the above rates. The optional route is open for all sectors i.e. handloom, power looms, independent processors, stand alone units as well as composite mills.

4.8.5 All textiles and textiles articles falling under chapter 50 to 63 have been fully exempted from duties under Additional Excise Duty (Goods of Special Importance) Act and Additional Excise Duty (Textiles and textiles Articles) Act, wherever applicable.

4.8.6 Manufacture of polyester filament yarn on job work basis has been excluded from the purview of notification No. 214/86-CE.

4.8.7 Rule 12 B of the Central Excise Rules, 2002 has been omitted.

4.8.8 Provision relating to endorsement of document under clause (e) of sub-rule (1) of Rule 7 and the provisions relating to transfer of credit by exempted textile manufacturer under rule 8A of the Cenvat Credit Rules have been omitted.

#### 4.9 **Health:**

4.9.1 Existing concessional rate of excise duty of 16% to ambulances for Government run hospitals has been extended to all ambulances.

4.9.2 Rehabilitation aids such as talking books, talking calculators, talking thermometers, Braille writers, Braille computer terminals have been exempted from excise duty.

4.9.3 Excise duty exemption available to diagnostic kits used for detection of Hepatitis B has been extended to diagnostic kits used for detection of all types of Hepatitis.

4.10 **Retail Sale Price (RSP) based assessment:**

(a) Consequent to changes in excise duty rates:

- 1) Abatement on gas stoves of RSP not exceeding Rs. 2000 per unit, has been reduced from 40% to 35%
- 2) Abatement on scented supari, has been raised from 30% to 35%
- 3) Abatement on plastic insulated ware has been raised from 40% to 45%
- 4) Abatement on vacuum flasks has been raised from 35% to 40%

(b) RSP based assessment has been extended to monochrome (black & white) television sets with an abatement of 35%.

4.11 **Area based exemptions:** A sunset clause has been introduced in case of area based exemptions for Sikkim, Uttranchal and Himachal Pradesh so as to provide that the exemptions would be available only to those new units which are set up or existing units which are substantially expanded and commence commercial production on or before 31.03.2007.

4.12 **Miscellaneous:**

4.12.1 Newsprint in reels has been exempted from excise duty.

4.12.2 Specific rates of excise duty on colour television receivers, prescribed in case retail sale price is not declared or is not correctly declared, have been withdrawn. Colour television receivers will now uniformly attract excise duty of 16%.

5. **Amendments in Customs and Central Excise Act and Rules:**

5.1 **Credit of AED (GSI)**

5.1.1 Amendments have been made in the Cenvat Excise Rules, 2002 with retrospective effect from 1.4.2003, so as to provide that AED (GSI) paid on inputs on or after 1.4.2000 alone would be eligible for utilization towards payment of Cenvat duty. This amendment would come into effect on enactment of the Finance Bill. Effect of this amendment is that the credit of AED(GSI) against BED will be applicable only if the AED(GSI) was paid on or after 1.4.2000, the date from which separate

accounting for AED (GSI) was dispensed with. If any credit has been taken on inputs on which duty has been paid prior to this date, the same would be liable to be recovered. On the other hand, if any assessee has not taken credit, he would be entitled to do so if the AED (GSI) was paid on or after 1.4.2000. For details, relevant clause of the Finance Bill may be referred to. The Circular No.700/16/2003-CX dated 6.3.2003 is consequently withdrawn.

5.2 Provisions are being made in central excise and customs laws to allow compounding of offences either before or after initiation of proceedings by the Chief Commissioner. On compounding, the person would get immunity from prosecution, but would have to pay duty, interest and compounding fee.

5.3 A provision is being made in the Central Excise Act to enable recovery of arrears of revenue including the interest from the person, to whom another person liable to pay duty and interest in pursuance of a confirmed demand and an adjudication order, has transferred his business property.

5.4 Provisions are being made in the Central Excise Act to debar the adjudicating authority, Commissioner (Appeals), and the Appellate Tribunal, from granting more than three adjournments of personal hearings.

5.5 The Third Schedule to the Central Excise Act has been amended to extend the provisions of section 2(f)(iii) of the said Act to monochrome (black & white) television sets.

5.6 Customs Act, Central Excise Act and Finance Act, 1994 are being amended to provide for specified amount of fee to be paid when making appeal before appellate tribunal.

#### **(IV) SERVICE TAX:**

6.1 A very significant step is being taken in this year's budget for moving towards an integrated goods and services tax by making a provision in the Finance Bill for allowing credit of service tax and Cenvat across goods and services. Besides, a number of new services are proposed to be brought under service tax. It is expected that the above changes will substantially widen the base of service tax.

6.2 It is imperative that all out efforts are made to bring the provisions to the notice of potential assesseees, and all help and guidance is given at the level of Commissioners so as to dispel any apprehension in the minds of the assesseees. Provisions have been made for dispensing with the mandatory penalty for non registration. The Board has directed that in case of bonafide infringements, no penalty should be imposed, and all facilities should be given to the assesseees to comply with the provisions of service tax.



6.3 The Board would like to have a feedback from the Commissioners by the 26<sup>th</sup> July at the latest about the revenue estimated from various new services/expansion of services for the rest of the financial year and about the expected loss on account of extension of duty credit scheme. **You may also bring to notice if there are any doubts about the coverage of the new services, and also suggest as to how best the input tax credit across goods and services may be implemented.**

6.4 **The following changes will come into effect on enactment of Finance (No.2) Bill 2004:**

6.4.1 **Rate and input credit:** The rate of service tax is being raised from 8% to 10%. The credit of service tax and excise duty is being extended **across goods and services.**

6.4.2 **Service tax @ 10% is being imposed on the following services,** namely, Business exhibition services, Airport services, Transport of goods by road by a goods transport agency (only applicable to commercial concerns issuing the consignment note), Transport of goods by air, Survey and exploration of minerals, Opinion poll services, Intellectual property services other than copyright, Forward contracts services, Pandal or shamiana services, Outdoor catering, TV or radio programme production, Construction services in respect of commercial or industrial buildings and civil structure and Travel agents (other than air/rail travel agents).

6.4.3 Service tax is being imposed only on the risk cover in life insurance.

6.4.4 The scope of certain existing services is being extended as follows:

- (a) Commission and installation of plant, machinery or equipment to include 'erection' thereof.
- (b) Stock brokers to include 'sub-brokers'.
- (c) Cable operator service to include 'Multi System Operators (MSO)'.
- (d) Business auxiliary service also to include service relating to procurement of inputs, production of goods or provision of services on behalf of the client. However, activities amounting to manufacture are excluded from the scope of the service tax.
- (e) Financial services also to include other specified financial services, namely, lending, issue of pay order, demand draft, cheque, letter of credit, bill of exchange, providing a bank guarantee, overdraft facility, bill discounting, safe deposit lockers, or safe vaults and operation of bank accounts. The interest amount would, however, remain excluded from the purview of service tax. In addition to banking company, financial institution including a non-banking financing company, body corporates, any other commercial concern providing financial services will also be covered.
- (f) Tour operator services to include such package tour operators also who organize tours involving any mode of transport.

**6.5 The following changes come into effect immediately:**

**6.5.1 Following service tax exemptions are being removed:**

- (a) Exemption to services in relation to safe deposit lockers provided by security agencies.
- (b) Maintenance or repairs of computers under a maintenance contract or by the manufacturer.
- (c) Mandap keeper services provided by hotels (40% abatement if catering is also provided).
- (d) Commission agents, other than those dealing in agricultural produce, under business auxiliary service.
- (e) Broadcasting service provided by cable operators.
- (f) Reduction of abatement from 90% to 60% for non-package tours.

**6.5.2 Following abatements are being provided:**

- (a) 40% abatement in convention service when catering is also provided.
- (b) 60% abatement to rent-a-cab scheme operators.

**6.5.3 Changes in Act and Rules:**

- (a) Compulsory verification of assessment by departmental officers is being done away with.
- (b) Mandatory penalty for non-registration is being removed.
- (c) Rule 6 of Service Tax Credit Rules has been amended. If the input service supplier has not paid service tax, the Service Tax credit cannot be recovered from the person availing the credit if he had taken reasonable steps in terms of rule 5.
- (d) The present rate of interest of 15% per annum on delayed payment of service tax is being replaced by a range, from 10% to 36% per annum. The Central Government will have the power to notify the rate of interest on delayed payment of service tax within this range.
- (e) Section 67 of the Finance Act, 1994, is amended to provide that where the gross amount charged by a service provider is inclusive of service tax payable, the value of taxable service shall be such amount as with the addition of service tax payable thereon, is equal to the gross amount charged.
- (f) Sections 71 and 72 of the Finance Act, 1994, relating to verification of assessment and best judgment assessment respectively are being omitted.
- (g) The provisions of section 73 of the Finance Act, 1994, relating to recovery of service tax short levied or short paid or erroneously refunded are being redrafted on the lines of section 11A of the Central Excise Act. Consequent changes are also being made in section 74 (relating to rectification of orders), section 78 (which provides for penalty in case of fraud, misstatement etc.) and section 85 [relating to appeals before Commissioner (Appeals)].
- (h) Penalty provisions under Section 75A and 79 of the Finance Act, 1994, are being omitted. The provisions under Section 77 (which presently provides penalty for non filing of

returns) are being modified to provide for penalty for committing any contravention of rules and procedures. Technical and consequent amendments are being made in section 76 and 80.

- (i) Section 81 dealing with prosecution of companies, being otiose, is being omitted.
- (j) Explanation has been inserted in rule 6 of Service Tax Rules to clarify that in case payment is received in advance, service tax will be payable on *pro rata* basis.

7. 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 at Annexure 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 in Parliament. The first report in this regard may be sent by 18<sup>th</sup> July 2004 and subsequently as per the periodicity given in the Annexure.

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

9. I would take this opportunity to thank all of you, on my behalf and on behalf of the officers of the Tax Research Unit for the valuable suggestions you made in response to my earlier communication. These have provided valuable inputs. In fact, some of the proposals here are the direct outcome of such inputs.

10. All rate changes in customs and excise duties are explained in detail in the Explanatory Notes. You would appreciate that number of changes have been carried out through amendments in notifications, rules and Acts. Though every care has been taken to reflect the intention of the Government clearly in all these documents, the chances of human error cannot be ruled out. I would, therefore, request you to kindly go through the explanatory notes, notifications and Finance Bill carefully and bring to my notice at the earliest any omission/error that might have crept in. If there is any doubt or difficulty on any point, you are requested to bring it immediately to my notice. You could also contact Shri Gautam Bhattacharya, Director, TRU (Tel No.23092634), Shri Alok Shukla, Director, TRU (Tel No.23092753) or Shri V. Sivasubramanian, Deputy Secretary, TRU (Tel No. 23092236). Copies of the FM's speech, notifications, Finance Bill etc, are forwarded herewith. These will also be available on the department's website soon after the conclusion of FM's speech.

With regards,

Yours sincerely,

(Gautam Ray)

To

All Chief Commissioners/Director Generals/  
Commissioners of Customs, Central Excise and Service Tax

**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
8.7.2004							
15.7.2004							
1.8.2004							
16.8.2004							
1.9.2004							

Notes:

- Description should be specific and should indicate the brand name and unit of sale, e.g. 'X' brand refined oil – 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.
- 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.
- In remarks column, kindly indicate in broad terms the average percentage of input duty which would be available as credit.
- First report should give the position as on 8.7.2004 and 15.7.2004 and should be sent so as to reach latest by 18.7.2004. Subsequent report should give the position as on 1.8.2004, 16.8.2004, 1.9.2004 and should reach within 5 days after the expiry of the specified date.
- While submitting the reports for the period subsequent to 15.7.2004, the detail submitted in the earlier reports may kindly be repeated. To illustrate, while submitting the reports for the period ending on, say, 1.8.2004, the details given in the report for 8.7.2004 and 15.7.2004 also be repeated.
- Copy of the reports meant for TRU should be sent by name to Shri D.K.Pandey, Under Secretary, Tax Research Unit, R.No.146, North Block, and New Delhi-110001.
- Reports should be in respect of items specified below:-
  - Iron and steel of chapter 72
  - Contact lenses
  - Playing cards.
  - Cakes and pastries
  - Plastic insulated ware
  - Vacuum flasks
  - Scented supari
  - Pre-fabricated buildings
  - Laboratory glassware
  - Clocks and watches of retail sale price not exceeding Rs.500 per piece
  - Parts of clocks and watches of retail sale price not exceeding Rs. 500 per piece.

- (xii) Monochrome televisions receivers
- (xiii) Populated printed circuit boards for monochrome television receivers
- (xiv) Imitation jewellery
- (xv) Candles
- (xvi) Matches made in semi mechanized and mechanized sectors
- (xvii) Specified parts of pre-fabricated buildings such as blocks, slabs, concrete beams and stairs.
- (xviii) Computers
- (xix) Tractors
- (xx) Branded and packed preparations of meat, fish and poultry