

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

Gautam Ray
Joint Secretary (TRU)
Tel : 23092687
Fax : 23092031

D.O.F.No.334/1/2005-TRU
New Delhi, dated the 28th February, 2005

Dear Chief Commissioner/Commissioner,

The Finance Minister has introduced the Finance Bill, 2005 in the Lok Sabha on 28th February, 2005. Changes in excise, customs and service tax have been made through the Finance Bill [clauses 65 to 88, 116, 118 to 120 and 122 to 124] and through notification Nos. 11/2005-Customs to 25/2005-Customs, 4/2005-CE to 13/2005-CE, 11/2005-CE (NT) to 14/2005-CE (NT) and 4/2005-ST to 8/2005-ST, all dated 1st March, 2005. Details of the changes are available in the Explanatory Notes. For full details, relevant provisions of the Finance Bill, 2005 and the notifications may be referred to. Salient features of some of these proposals in respect of excise, customs and service tax are indicated below:

(I). CUSTOMS

2. Additional duty of Customs

2.1 Enabling power has been taken to levy an additional duty of customs not exceeding 4% on all items imported into India. For this purpose, section 3 of the Customs Tariff Act, 1975, has been substituted. This additional duty is being put in place to counterbalance various internal taxes like Sales Tax and VAT leviable on goods on their sale or purchase in India. To begin with, this additional duty will be charged only on imports of ITA (Information Technology Agreement) bound items and on specified inputs/raw materials, for manufacture of electronics/information technology items, which are exempted from customs duty. This duty will not be charged on information technology software. This additional duty will not be included in the assessable value for levy of education cess on imported goods. Manufacturers will be able to take credit of this additional duty for payment of excise duty on their finished products.

3. Peak rate of Duty

3.1 Peak rate of customs duty on non-agricultural goods has been reduced from 20% to 15% with a few exceptions. As regards textiles, only the ad valorem component has been reduced to 15%, the specific component, wherever applicable, remaining unchanged. The tariff rates in general are being amended accordingly. Since the reduction in tariff rates will come into effect only on enactment of the Finance Bill, 2005, the effective rates are being prescribed through notification.

4. Metals

4.1 Customs duty has been reduced from 15% to 10% on primary and semi-finished forms of metals, namely, Stainless steel, Ferro-alloys and other alloy steel (excluding seconds and defectives), Aluminium, Copper, Zinc, Tin and Base metals of Chapter 81.

4.2 Customs duty on lead has been reduced from 15% to 5%, on articles of lead from 20% to 10% and on battery separators from 20% to 5%.

4.3 Customs duty on Calcined Alumina has been reduced from 20% to 10%.

5. Refractories and their inputs

5.1 Customs duty has been reduced from 15% to 10% on refractories and graphite electrodes. Customs duty has also been reduced from 15% to 10% on raw materials for refractories, namely, natural graphite powder, aluminous cement, 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.

6. **Ashes and Residues** : Customs duty has been reduced from 15% to 10% on ashes and residues of copper and zinc.

7. **Catalysts** : Customs duty has been reduced from 15% to 10% on catalysts of heading 38.15.

8. Agriculture

8.1 Concessional rate of 5% customs duty + Nil CVD, presently available to specified plantation machinery upto 30.4.2005, has been extended by one more year.

8.2 Customs duty on cut flowers including orchids has been increased from 30% to 60%.

8.3 Customs duty on cloves has been reduced from 70% to 35%.

8.4 Customs duty on oleo pine resin has been reduced from 10% to 5%.

8.5 Customs duty on Alpha pinene has been reduced from 15%/20% to 5%.

8.6 Customs duty on refrigerated motor vehicles for transport of goods has been reduced from 20% to 10%.

9. Information Technology:

9.1 Customs duty has been exempted on specified items covered under the Information Technology Agreement (ITA). With this, all 217 ITA bound items are now fully exempt from customs duty. All goods imported for the manufacture of ITA bound items have also been exempted from customs duty subject to end-use condition.

10. Petroleum Products:

10.1 Customs duty on crude petroleum and petroleum products has been reduced as follows:

(a) Crude petroleum from 10% to 5%;

(b) Kerosene for public distribution system from 5% to Nil;

- (c) LPG for domestic use from 5% to Nil;
- (d) Motor Spirit (Petrol) from 15% to 10%;
- (e) High Speed Diesel oil from 15% to 10%; and
- (f) Other petroleum products from 20% to 10%.

10.2 Additional duty of customs on motor spirit and high speed diesel oil has been increased from Re.1.50 per litre to Rs.2 per litre.

11. Chemicals and Petrochemicals:

11.1 Customs duty has been reduced from 15% to 10% on Polymers of Ethylene, Polypropylene and Propylene copolymers, Polymers and copolymers of Styrene and Polymers of Vinyl Chloride;

11.2 Customs duty has been reduced on Ethylene, Propylene, Butylene, Butadiene, Benzene, Toluene, O-Xylene, Styrene, Ethylbenzene, Ethylene Dichloride, Vinyl Chloride Monomer and Acrylonitrile, from 10% to 5%.

11.3 Customs duty on other organic chemicals falling under headings 2901 to 2904, has been reduced to 10%.

11.4 Customs duty on Ethyl Vinyl Acetate has been reduced from 20% to 10%.

11.5 Customs duty on molasses has been reduced from 15% to 10%.

11.6 Customs duty on industrial (denatured) ethyl alcohol has been reduced from 15% to 10%.

12. Capital Goods:

12.1 Customs duty of 5% on mono or bi-polar membrane electrolysers and parts thereof presently available to caustic soda industry, has been extended to caustic potash industry.

12.2 Customs duty on railway locomotives, railway rolling stock and railway equipment and their parts (of chapter 86) has been reduced from 20% to 10%.

12.3 Concessional rate of customs duty of 5% presently available to specified goods designed for use in leather/footwear industry has been extended to 7 more specified machinery.

12.4 Customs duty on specified parts of printing presses has been reduced from 20% to 10%.

12.5 Customs duty on specified textile machinery, and raw materials and parts for manufacture of such machinery, has been reduced from 20% to 10%.

12.6 The concessional rate of 5% on specified textile machinery and parts is being extended beyond 28th day of February, 2005.

12.7 Customs duty on specified machinery/equipment for use in Inland Container Depot (ICD)/Container Freight Station (CFS) has been reduced from 20% to 10%.

12.8 Customs duty exemption for specified inputs for manufacture of leather goods, travel goods, footwear, etc. for export has been extended to some more items, subject to the existing 3% overall value limit.

13. National Calamity Contingent Duty (NCCD): For replenishment of the National Calamity Contingent Fund, duty of Rs. 50 per metric tonne on imported crude oil, and a duty of 1% on polyester filament yarn, motor cars, multiutility vehicles, and two-wheelers, was imposed in Finance Act 2003. This levy, which is valid upto 31.3.2005 is being extended without any time limit.

14. Baggage: Customs duty on passenger baggage has been reduced from 40% to 35%.

15. Miscellaneous: Customs duty has been reduced on:

- 1) Second hand motor cars/motor cycles from 105% to 100%.
- 2) Coking coal of high ash content (12% or more) from 15% to 5%.
- 3) Boron ore from 15% to 5%.
- 4) Atmospheric Water Generators from 20% to 5%.
- 5) Specified parts of battery operated road vehicles from 20% to 10%.

II. CENTRAL EXCISE

16. Additional duty of excise on Pan Masala and Specified tobacco products:

16.1 An additional duty of excise, by way of surcharge, has been levied on pan masala and certain specified tobacco products (Clause 85 of the Finance Bill, 2005). The surcharge will be levied at prescribed specific rates on cigarettes, and at specified ad valorem rates on other tobacco products. Units in North Eastern Region will also attract this surcharge. This surcharge will not apply to biris and cigarettes made of tobacco substitutes.

17. Imposition and Increase in Duty

17.1 Excise duty of 8% with CENVAT credit has been imposed on mosaic tiles.

17.2 Excise duty on molasses has been increased from Rs.500 per metric tonne to Rs.1000 per metric tonne.

17.3 Excise duty on cement clinkers has been increased from Rs.250 per metric tonne to Rs.350 per metric tonne.

17.4 Excise duty has been raised on iron and steel and on ships for breaking up, from 12% to 16%.

17.5 Excise duty of 16% has been imposed on road tractors (of engine capacity exceeding 1800 cc) for semi trailers.

18. Branded articles of jewellery

18.1 A duty of 2% is being imposed on branded articles of jewellery of heading 7113 of the Central Excise Tariff. The duty will be leviable only if the brand name or the trade name is

indelibly affixed or embossed on the article of jewellery itself. The process of such fixing or embossing the brand name has been deemed to amount to 'manufacture' by a Chapter Note.

18.2 Whether a particular article of jewellery is branded or not is a matter of fact and has to be decided by the field formations in the light of all relevant facts. The brand name for the purposes of this levy will mean a brand name or trade name, whether registered or not, that is to say a name or a mark, such as symbol, monogram, label, signature or invented word or any writing which is used in relation to a product for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person. There are various judicial pronouncements as to what constitutes a brand name or trade name. In this context your attention in particular is invited to the decision of Supreme Court in the case of Astra Pharmaceuticals vs. Collector of Central Excise, Chandigarh {1975(75)ELT 214(SC)}.

19. Proposal for recovery of credit of AED(GSI) paid prior to 1st April, 2000, which was utilized for payment of CENVAT duty

19.1 In the Finance (No.2) Act, 2004, a provision was made {vide section 88 read with the Second Schedule of the said Act} to restrict utilization of credit of Additional Duty of Excise (Goods of Special Importance) Act i.e. AED (GSI) paid prior to 1st April, 2000. With this amendment, the credit of AED(GSI) paid on or after the said date alone is available for utilization towards payment of CENVAT duty. Suitable amendment is being made to section 88 of the Finance (No.2) Act, 2004, so as to provide how the credit of AED(GSI) along with interest payable should be realised. For details, kindly refer to the relevant provisions of the Finance Bill, 2005. Briefly, the salient features are as under:

- (a) A manufacturer who is required to reverse the credit would be allowed to do so, in not more than 36 equated monthly instalments (EMIs). For this purpose, the amount of credit wrongly availed and the interest thereon shall be determined by the jurisdictional officer in the following manner,-
 - (i) The Central Excise Officer would, by the 25th May 2005, serve notice on the assessee asking him to declare the amount of the CENVAT credit wrongly availed.
 - (ii) The assessee is required to furnish the details by the 31st May 2005 failing which he would be debarred from the scheme, and the credit and interest would be recovered in the manner, as existed prior to this amendment.
 - (iii) The interest payable would be @ 13% for the period between each date of utilization of wrongly availed credit and 10th September 2004. It has been deemed that the wrongly availed credit has been utilized first before utilizing the credit of AED (GSI) paid after 1st April 2000.

- (iv) The Central Excise Officer would determine the total credit with interest, and inform the assessee, in writing, the EMI with bifurcation of amounts of credit and the interest, by 15th June 2005.

For example, for assessee 'A',

- (a) if the total credit availed of AED (GSI) availed prior to 01.04.2000 =Rs. 10 crores; and
- (b) if the interest calculated as per above method is =Rs. 1.2 crores.

Then the total dues would be Rs.10 crores + Rs. 1.2 crores= Rs. 11.2 crores and the EMI would be $\text{Rs.}11.2/36 = \text{Rs. } 31.11 \text{ lakhs}$ (Rs.27.77 lakhs credit +Rs.3.34 lakhs interest)

- (v) The payment of monthly instalments would commence from the month following the month of the determination. The date of payment would be the same as the due date for paying excise duty i.e. 5th of a month.
- (vi) An assessee can pay up the entire dues or a part thereof, before the due dates. Non-payment of any instalment resulting in any arrears would debar him from the scheme prospectively.
- (vii) After all the EMIs have been paid, an order shall be issued closing the proceedings.

19.2 The assessee is however free to give all the above details even before the due date of 31st May 2005, and can make advance payments, if they so desire.

19.3 Keeping in view the time-bound nature of the provisions, the field formations are requested to take necessary preparatory steps much before the enactment of the Finance Bill, 2005. The concerned assessee may be suitably informed about the above procedure immediately so as to enable them to meet the above requirements well in time.

20. Refined edible oils – Introduction of a Chapter Note with retrospective effect

20.1 Refined edible oils are chargeable to excise duty under Chapter 15 of the Central Excise Tariff. However, the Supreme Court in its judgement in the case of M/s. Shyam Oil Cake Ltd. V/s. Collector of Central Excise, Jaipur {2004 (174) E.L.T. 145(SC)} has decided that in the absence of section note or chapter note, refining or processing of edible vegetable oils does not amount to manufacture. A suitable Note is now being introduced in Chapter 15 so as to provide that in relation to edible oils, the process of refining will amount to manufacture. This chapter note is proposed to be made effective from 1st March, 1986.

20.2 As regards clearances from 1st March, 2005, it may be noted that even though this process of refining has been specifically deemed to be manufacturing process, no excise duty is required to be paid since refined edible oils have been exempted from excise duty.

21. Amendment to notification No.88/88-CE dated 1.3.1988

21.1 Notification No.88/88-CE dated 1.3.1988 exempts, inter-alia, specified goods manufactured in rural areas by registered co-operative societies, or by women's societies, or by institutions recognized by the Khadi and Village Industries Commission or the State Khadi and Village Industries Boards or by units run with the cash assistance from District Rural Development Agencies {under the Integrated Rural Development Programme(IRDP)}. At present, rural area for the purpose of this notification is defined as having the same meaning assigned to it in clause (ff) of Section 2 of the Khadi and Village Industries Act, 1956.

21.2 Amendment to notification No. 88/88-CE is proposed so as to provide that this definition of 'rural area' will also be applicable from 21st February, 2000 to 28th February, 2003. This has been done by replacing clause (a) of the Explanation during the period 21.2.2000 to 28.2.2003. Show cause notices, if any, issued in this context will have to be decided in the light of the above amendments.

22. Relief Measures:

22.1 Excise duty of Re. 1 per kg. on refined edible oils and Rs.1.25 per Kg. on vanaspati, bakery shortening and inter-esterfied, re-esterified, elaidnised fats, has been exempted.

22.2 Tea and tea waste have been exempted from additional duty of excise of Re. 1 per kg.

22.3 Excise duty has been reduced from 24% to 16% on air conditioners.

22.4 Excise duty has been reduced from 24% to 16% on tyres, tubes and flaps.

22.5 Excise duty has been reduced from 16% to 12% (with Cenvat credit) on matches made by mechanized and semi-mechanized sectors.

22.6 Excise duty on imitation jewellery has been reduced from 16% to 8%.

22.7 Excise duty has been reduced from 16% to 8% on cakes and pastries.

22.8 Parts manufactured and used captively for production of power tillers (of heading No. 84.32) have been exempted from excise duty.

22.9 Excise duty on electronic milk fat and solid non-fat tester has been reduced from 16% to 8%.

23. Textiles:

23.1 Excise duty on polyester filament yarn (PFY), including polyester textured yarns has been reduced from 24% to 16%.

23.2 Optional duty has been prescribed for processed filament yarns (including polyester filament yarn) manufactured from yarn procured from outside by independent processors. Such yarn would either attract Nil excise duty without availment of Cenvat credit or pay 8% excise duty with Cenvat credit.

23.3 Exemption from excise duty on specified textile machinery is being continued beyond 28.2.2005.

24. Small Scale Industry:

24.1 The value of clearances in the preceding financial year, for determining eligibility for the exemption, is being increased from Rs.3 crore to Rs. 4 crore.

24.2 Exemption scheme, which provides for a concessional rate of 60% of normal rate with Cenvat credit upto clearances of Rs. 1 crore (notification No. 9/2003-CE), is being withdrawn.

These changes will come into effect from 1st April, 2005.

25. Petroleum:

25.1 Basic excise duty rates on certain petroleum products have been revised as under:

		From	To
(a)	Petrol	23%	8% +Rs.5.00/litre
(b)	Diesel	8%	8% +Rs.1.25/litre
(c)	Kerosene for public distribution	12%	Nil
(d)	LPG for domestic use	8%	Nil
(e)	Light Diesel Oil	16% +Rs.1.50/litre	16% +Rs.2.50/litre

25.2 Additional duty of excise on motor spirit and high speed diesel oil has been increased from Re.1.50 per litre to Rs.2 per litre.

25.3 There is no change in special additional excise duty of Rs.6.00 per litre on motor spirit.

26. National Calamity Contingent Duty (NCCD): NCCD was imposed on following items by the Finance Act 2003:

- 1) 1% on polyester filament yarn, motor cars, multiutility vehicles, and two-wheelers;
- 2) Rs.50 per metric tonne on domestic crude oil.

This levy, which was valid upto 31.3.2005, has been extended without any time limit.

27. Retail Sale Price (RSP) based assessment: Abatement from retail price for levy of excise duty on air conditioners has been reduced from 35% to 30%, consequent to reduction in excise duty from 24% to 16%.

28. Central Excise Tariff (Amendment) Act, 2005

As you would be aware, the Central Excise Tariff (Amendment) Act, 2005 has been brought into effect from 28th February, 2005. The new 8 digit tariff replaces the earlier 6 digit tariff. To ensure that the existing rates by notification are continued, and are not denied merely on the ground of change in chapter, heading, sub heading, 3 notifications No. 5/2005-CE (NT), 6/2005-CE(NT) and 7/2005-CE(NT) all dated 24th February, 2005 effective from 28.2.2005 have been issued in this regard. Another notification No.3/2005-CE dated 24.2.2005 was also issued effective from 28.2.2005 to continue the existing rates for specified goods, for which the exemptions were built in the tariff but not in the amended tariff schedule.

29. Amendments in Customs and Central Excise Act and Rules:

- 1) Rule 57CC, Rule 57AD of the Central Excise Rules and Rule 6 of the CENVAT Credit Rules are being amended retrospectively to provide a mechanism for recovery of amount due from a manufacturer when he is required to pay an amount of 8% or 10%, on his exempted clearances because of his failure to maintain separate account for common inputs used in both exempted and dutiable products. It is proposed to give retrospective effect to this provision with effect from 1st August, 1996.
- 2) Sections 128 and 157 and the Fourth Schedule of Finance Act, 2003 are being omitted consequent to exemption from the additional duty on tea.
- 3) Section 5A of the Central Excise Act, is being amended so as to provide that if any excisable good is exempted from duty of excise absolutely, the manufacturer of such goods will be bound to avail of the exemption.
- 4) Section 23A of the Central Excise Act is being amended so as to allow an existing Joint Venture in India to avail of the benefit of Advance Ruling. The Central Government is also being empowered to notify any class or category of persons as eligible for availing of the benefit of Advance Ruling.
- 5) Section 32PA of the Central Excise Act, 1944 is being amended so as to make a provision for sending back a case by the Settlement Commission to the Tribunal in the event of non-cooperation by the applicant.
- 6) The power of the Central Board of Excise and Customs (CBEC) to review orders passed by Commissioner of Central Excise is being vested in a Committee of two Chief Commissioners as may be notified by the CBEC. Similarly, the power of the Commissioner to review the orders of Commissioner (Appeal) is being vested in a Committee of two Chief Commissioners of Central Excise. For this purpose suitable amendments are being made in sections 35A, 35B and 35E of the Central Excise Act.
- 7) CENVAT Credit rules have been amended so as to provide that credit of Additional excise duty (by way of surcharge) on pan masala and specified tobacco products would be available for utilization of payment of this Additional excise duty only. Credit of no other duty can be utilized for paying this Additional excise duty.
- 8) The Schedule under the Additional Duties of Excise (Goods of Special Importance) Act, 1957 is being amended so as to align the entries with the new Excise Schedule introduced in the Central Excise Tariff (Amendment) Act, 2005.
- 9) The Schedule under the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 is being amended so as to align the entries with the new Excise Schedule introduced by the Central Excise Tariff (Amendment) Act, 2005.

- 10) The Third Schedule under the Central Excise Act, 1944 is being amended so as to align the entries with the new Excise Schedule introduced by the Central Excise Tariff (Amendment) Act, 2005.
- 11) The Seventh Schedule under the Finance Act, 2001 is being amended so as to align the entries with the new Excise Schedule introduced by the Central Excise Tariff (Amendment) Act, 2005.
- 12) Sections 28E and 28H of the Customs Act, 1962 are being amended so as to provide that advance ruling may also be sought in respect of determination of Rules of Origin of goods and matters relating thereto. It is also proposed to allow an existing Joint Venture in India to avail the benefit of Advance Ruling. The Central Government is also being empowered to notify any class or category of persons as eligible for availing of the benefit of Advance Ruling.
- 13) Section 28F of the Customs Act, 1962, is being amended so as to rename “Authority for Advance Ruling” as “Authority for Advance Ruling (Customs, Central Excise and Service Tax)”.
- 14) Section 127MA of the Customs Act, 1962 is being amended so as to make a provision for sending back a case by the Settlement Commission to the Tribunal in the event of non-cooperation by the applicant.
- 15) The power of the Central Board of Excise and Customs (CBEC) to review orders passed by Commissioner of Customs is being vested in a Committee of two Chief Commissioners as may be notified by the CBEC. Similarly, the power of the Commissioner to review the orders of Commissioner (Appeal) is being vested in a Committee of two Chief Commissioners of Customs. For this purpose suitable amendments are being made in section 128A, 129A and 129D of the Customs Act.

III. SERVICE TAX

30.1 Significant changes are being proposed in number of provisions of the Finance Act, 1994 relating to service tax. Levy on a number of new services and expansion in the scope of the existing services are also being proposed. Changes have also been proposed in Service Tax Rules relating to certain procedures. The procedural changes will come into effect either from 1.3.2005 or from 1.4.2005. Certain changes relating to the Finance Act will come into effect from a date to be notified after enactment of the Finance Bill. Officers are requested to carefully study the changes and their effective dates of implementation. The major changes are as follows:

- (a) Small taxable service providers will be exempt from service tax upto a turnover limit of Rs. 4 lakhs in a year, provided the value of taxable services did not exceed Rs. 4 lakhs in the previous year. This provision will come into effect from 1.4.2005. However, benefit

of this exemption will not be applicable wherever service tax is payable by a person other than the service provider.

(b) Service tax @ 10% is being imposed on the following services:

- 1) Transport of goods through pipeline or other conduit.
- 2) Site preparation and clearance, excavation, earth moving and demolition services, other than those provided to agriculture, irrigation and watershed development.
- 3) Dredging services of rivers, ports, harbours, backwater and estuaries.
- 4) Survey and map making other than by Government Departments.
- 5) Cleaning services other than in relation to agriculture, horticulture, animal husbandry or dairying.
- 6) Membership of Clubs or Associations (religious forum, political organizations will be excluded).
- 7) Packaging services.
- 8) Mailing list compilation and mailing; and
- 9) Construction of residential complexes having more than twelve residential houses or apartments together with common areas and other appurtenances.

These services will be leviable to service tax only from the date to be notified after the enactment of the Finance Bill, 2005.

(c) Scope of certain existing services is being extended as follows:

- (1) Commercial or industrial construction service to:
 - (i) include renovation of such building or civil structure.
 - (ii) include post construction completion and finishing services for such building or civil structure.
 - (iii) include construction, repair, alteration, renovation or restoration of pipeline or conduits.
- (2) Erection, commissioning or installation services to include specified installation services.
- (3) Maintenance or repair services to include:
 - (i) maintenance or management of immovable properties.
 - (ii) maintenance or repair including reconditioning or restoration undertaken as part of any contract or agreement.
- (4) Broadcasting services to include charges recovered by broadcasting agencies from multisystem operator (MSO) and provision of direct to home (DTH) signals to the customers.
- (5) Sound recording to include recording of sound on any media and includes post production services such as sound mixing or re-mixing.

- (6) Video-tape production to include recording of any programme, event or function on any media and includes post production services.
- (7) Taxable services provided by authorised service station to include reconditioning or restoration of motor-cars, two-wheeled and light motor vehicles.
- (8) Beauty parlours Service to include all services provided by beauty parlours.
- (9) Manpower recruitment service to include supply of manpower, temporary or otherwise.
- (10) The franchisee service to cover all agreements by which, the franchisor grants representational rights to franchisee to sell or manufacture goods or provide services identified with the franchisor.
- (11) Business Auxiliary Service to include production or processing of goods for or on behalf of the client.
- (12) Out door catering service, to include catering from a place or premises provided, by way of tenancy or otherwise, by the person receiving such services.

Service tax is leviable on these expanded services only from the date to be notified after the enactment of the Finance Bill, 2005.

(d) Amendments in Act and Rules

- 1) Section 65(105) of Finance Act, 1994 is being amended to include within the scope of taxable services “taxable service to be provided” and to clarify that services provided from outside India to a recipient in India is also treated as ‘taxable services provided in India’.
- 2) Section 67 of Finance Act, 1994 is being amended to facilitate payment of service tax as soon as payment for the taxable services is received. By this amendment, payment received before, during or after the provision of taxable service would form part of the gross amount for charging service tax.
- 3) Sections 69 and 70 of Finance Act, 1994 are being amended to enable person other than the service tax payer for registration and filing of returns e.g. certain category of small service providers, and input service distributors within the exemption limit.
- 4) Section 73 of Finance Act, 1994 is being amended to facilitate issue of show cause notice and adjudication of cases by all central excise officers.
- 5) Section 74 of Finance Act, 1994 is being amended to facilitate rectification of mistakes of orders passed by officers subordinate to Commissioner of Central Excise.
- 6) Section 78 of Finance Act, 1994 is being amended to facilitate voluntary payment relating to orders passed by officers of Central Excise.

- 7) Section 84 of Finance Act, 1994 is being amended to enable revision of orders passed by officers subordinate to Commissioner of Central Excise.
- 8) Sections 85 and 86 of Finance Act, 1994 are being amended to provide filing of appeal against the orders passed by the central excise officers.
- 9) A new Section 83A is being inserted similar to that of Section 33 of Central Excise Act to provide power of adjudication.
- 10) Adjudication procedure prescribed under Section 33A of Central Excise Act is adopted for the purpose of service tax matters also.
- 11) Section 96A of Finance Act, 1994 is being amended to allow any existing joint venture in India to avail the benefit of advance ruling and empowering the Central Government to notify any class or category of persons to avail the benefit of advance ruling.
- 12) Rule 2 is amended to shift the liability to pay service tax from mutual fund distributor or agent to mutual funds.
- 13) Rule 4 is amended to facilitate more than one registration by a person having centralized account and billing system.
- 14) Rule 4A(1) prescribes the requirement of issue of invoice within 14 days from date of completion of provision of service of receipt of payment.
- 15) Rule 6 changes the due date for payment of service tax from 25th of the following month or quarter to 5th of the following month or quarter.

31. General

31.1 Commissioners of Central Excise, Customs and Service Tax may study these changes carefully and indicate their views, comments and suggestions on implementation of the proposed changes. A survey may be undertaken to identify the potential tax payers and the revenue potential. Reports to this effect may be sent by 15.3.2005 and 31.3.2005. It is necessary to ensure that the implementation of the proposed changes is smooth and causes no inconvenience to the tax payers. Special efforts should be made to guide the tax payers to understand and adopt these changes. The Departmental Officers should also be appropriately briefed on these changes.

31.2 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-I 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 15th March, 2005 and subsequently at an interval of 15 days.

31.3 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.

31.4 All rate changes in customs and excise duties are explained 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 our 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 or to the notice of Shri R. Sekar, Joint Secretary (TRU-II) (Tel No.23093027), 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
28.2.2005							
15.3.2005							
31.3.2005							
15.4.2005							
30.4.2005							

Notes:

1. 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.
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 28.2.20035 and should be sent so as to reach latest by 8.3.2005. Subsequent report should give the position as on 15.3.2005, 31.3.2005, 15.4.2005 & 30.4.2005 and should reach within 5 days after the expiry of the specified date.
5. While submitting the reports for the period subsequent to 15.3.2005, the detail submitted in the earlier reports may kindly be repeated. To illustrate, while submitting the reports for the period ending on, say, 31.3.2005, the details given in the report for 15.3.2005 should also be repeated.
6. 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.
7. Reports should be in respect of items specified below:-
 - (i) Air Conditioners
 - (ii) Tyres, tubes and flaps
 - (iii) Refined edible oils
 - (iv) Vanaspati
 - (v) Tea
 - (vi) Iron and steel
 - (vii) Molasses
 - (viii) Polyester filament yarn
 - (ix) Petrol
 - (x) Diesel
 - (xi) Matches