

CUSTOMS

- Note:**
- (a) “Customs Duty” means the customs duty levied under the Customs Act, 1962.
 - (b) “CVD” means the Additional Duty of Customs levied under sub-section (1) of section 3 of the Customs Tariff Act, 1975.
 - (c) “SAD” means the Special Additional Duty of Customs levied under sub-section (5) of section 3 of the Customs Tariff Act, 1975.
 - (d) “Export duty” means duty of customs leviable on goods specified in the Second Schedule to the Customs Tariff Act, 1975.
 - (e) Clause nos. in square brackets [] indicate the relevant clause of the Finance Bill, 2012.

Amendments carried out through the Finance Bill, 2012 come into effect on the date of its enactment unless otherwise specified.

AMENDMENTS IN THE CUSTOMS ACT, 1962:

- 1) Clause (1) of section 2 is being amended to include air freight stations in the definition of “customs airport”. [Clause 114]
- 2) Clause (aa) of Section 7 is being amended to include “air-freight stations”. [Clause 115]

These amendments would empower the Central Board of Excise and Customs to appoint air freight stations for unloading of import cargo and loading of export cargo as in the case of Inland Container Depots.
- 3) The provisions of the Customs Act enable recovery of duty not-levied, or short-levied by reason of collusion, or wilful mis-statement or suppression of facts by the importer or the exporter or the agent or employee of the importer or exporter. Certain cases have been detected relating to utilization of instruments, such as duty credit scrips, where the instrument was obtained by means of collusion or wilful mis-statement or suppression of facts by the person to whom the instrument was issued or his agent or employee and not by the importer who utilized it. A new section 28AAA is being inserted to provide for recovery of duties, from the person to whom the instrument was issued without prejudice to any action that may be taken against the importer. [Clause 116]
- 4) Section 28BA is being amended to make the provisions relating to provisional attachment of property applicable to the proposed Section 28AAA. [Clause 117]
- 5) Section 47 is being amended to insert a new proviso therein to provide that the Central Government may, by notification in the official gazette, specify the class or classes of importers who shall pay customs duty electronically. [Clause 118]
- 6) Sections 28AA and 28AB of the Customs Act were merged through the provisions of the Finance Act, 2011. Section 75A is being amended to substitute the reference to section 28AB with section 28AA. The amendment is also being given retrospective effect from 08.04.2011. [Clause 119]
- 7) Section 104 is being amended to provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under the Act (except an offence punishable with term of imprisonment of three years or more under section 135) shall be non-cognizable and bailable. It also provides that all offences punishable with a term of imprisonment of three years or more under section 135 shall be cognizable. [Clause 120]
- 8) Section 104A is being inserted to provide that bail in the case of offences punishable with a term of imprisonment of three years or more under section 135 shall not be granted by a Court or Magistrate without an opportunity being given to the Public Prosecutor to present his case. It also provides that in the case of minors, infirm and women, the Magistrate may grant bail. It also excludes the jurisdiction of police officers to initiate investigation of offences under the Customs Act, unless authorized in this behalf by the Central Government by a special or general order. [Clause 121]
- 9) Section 122 is being amended to enhance the monetary limits for adjudication of cases involving confiscation of goods and imposition of penalty from Rupees two lakh to Rupees five lakh for Deputy/ Assistant Commissioners and from Rs.10,000 to Rs.50,000 for Gazetted officer lower in rank to Assistant/ Deputy Commissioner. [Clause 122]
- 10) Section 138 deals with summary trial of offences. This section is being amended to exclude offences punishable with term of imprisonment of three years or more under section 135 since it is being proposed that such offences shall be cognizable. [Clause 123]
- 11) Section 153 is being amended to bring ‘courier services’ within its ambit for the purpose of serving any order/decision/ summons/notice by the Commissioner. [Clause 124]
- 12) Exemption from additional duty is being provided retrospectively to “foreign going vessels” for the period from 1st March, 2011 to 16th March, 2012. [Clause 125]

AMENDMENTS IN CUSTOMS TARIFF ACT, 1975:

- 1) Section 8C empowers the Central Government to levy safeguard duty on imports from Peoples' Republic of China. It is being amended to provide that such duty may continue if the Central Government is of the opinion that such articles or goods continue to be imported into India so as to cause or threaten to cause market disruption to domestic industry even though the latter has taken measures to adjust to such disruption. The amendment would align the provisions of the section with the Transitional Product Specific Safeguard Mechanism under Chinese Accession Protocol signed with WTO in 2001. [Clause 126]
- 2) The First schedule to the Customs Tariff Act is being amended to,—
 - (i) revise the length of the lowest slab of both filter and non-filter cigarettes of length not exceeding 60 millimetres or exceeding 60 millimetres to length exceeding 65 millimetres or not exceeding 65 millimetres respectively.
 - (ii) revise the description of tariff items 2601 11 10 to 2601 11 90 dealing with iron ore and concentrates based on Fe content.
 - (iii) insert Note 13 in Chapter 48 to provide that notwithstanding anything contained in Note 12, if the paper and paper products of heading 4811, 4816 or 4820 are printed with any character, name, logo, motif or format they shall remain classified under Chapter 48 as long as such products are intended to be used for further printing. This would prevent classification disputes.
 - (iv) align the entries relating to copper scrap, brass scrap, nickel scrap, aluminium scrap, lead scrap and zinc scrap with the revised ISRI classification.
 - (v) enhance the rate of basic customs duty on bicycles from 10% to 30% and on parts of bicycles from 10% to 20%. [Clause 127]
- 3) The Second Schedule to the Customs Tariff Act is being amended to enhance the rate of export duty on chromium ore from Rs. 3000 per tonne to 30% ad valorem. [Clause 128]

The changes at para 2)(v) and 3) will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

CENTRAL EXCISE

AMENDMENTS IN CENTRAL EXCISE ACT, 1944:

- 1) Section 4 deals with the determination of value of excisable goods chargeable to duty on *ad valorem* basis. It is being amended to incorporate the definition of "inter-connected undertakings" contained in Monopolies and Restrictive Trade Practices Act, 1969 as the latter has been repealed. [Clause 129]
- 2) Section 9 provides that cases of evasion in which the duty leviable exceeds Rupees one lakh shall be punishable with a term of imprisonment extending to seven years and with fine. The section is being amended to substitute this amount with Rupees thirty lakh. [Clause 130]
- 3) Section 9A is being amended to provide that all offences under the Act, except an offence punishable with imprisonment of three years or more under section 9, shall be non-cognizable. [Clause 131]
- 4) Section 11A is being amended to exclude the period of stay in computing the period of one year or five years, as the case may be, for issuance of show cause notice where service of notice is stayed by an order of a court or tribunal. [Clause 132]
- 5) Section 11AC provides for reduced penalty if the duty along with interest is paid within a 30 days of the communication of the order. It is being amended to make available the benefit of reduced penalty only if the reduced penalty is also paid within the specified period of thirty days. [Clause 133]
- 6) Section 12F relating to search and seizure is being amended to align the provisions with Customs Act. [Clause 134]
- 7) Section 13 dealing with the power to arrest is being substituted to align the provisions with Customs Act and also to provide that offences punishable with imprisonment of three years or more under section 9 shall be cognizable. [Clause 135]
- 8) Section 13A is being inserted to provide that bail in the case of offences punishable with a term of imprisonment of three years or more under section 9 shall not be granted by a Court or Magistrate without an opportunity being given to the Public Prosecutor to present his case. It also provides that in the case of minors, infirm and women the Magistrate may grant bail. It also excludes the jurisdiction of police officers to initiate investigation of offences under the Central Excise Act, unless authorized in this behalf by the Central Government by a special or general order. [Clause 135]
- 9) Section 18 is being substituted to provide that save as provided under the Central Excise Act, searches shall be carried out as per the procedure laid down in the Code of Criminal Procedure. [Clause 136]
- 10) Section 19 dealing with disposal of persons arrested is being omitted as a consequential change. [Clause 137]
- 11) Section 20 is being amended to carry out consequential changes in view of omission of section 19. [Clause 138]

- 12) Notification No.1/2010-CE dated 6th February, 2010 provides exemption from Central Excise duty to goods cleared from new units or units that have undertaken substantial expansion in the State of Jammu and Kashmir. It is being amended retrospectively from the date of issue of the said notification to provide that for units undertaking substantial expansion in terms of the notification, the exemption period of ten years would be computed from the date of commercial production from the expanded capacity. This would clarify the policy intent. [Clause 139]
- 13) The Third Schedule of the Central Excise Act relating to the deeming of certain processes as amounting to “manufacture” is being amended to include cigarettes. Accordingly, the packing, or repacking in a unit container, labeling or relabeling of containers including the declaration or alteration of Retail Sale Price on it or adoption of any treatment to render cigarettes marketable shall be processes amounting to manufacture. [Clause 140]

Changes at para 13) above would come into force immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

AMENDMENTS IN CENTRAL EXCISE TARIFF ACT, 1985:

- 1) The First Schedule to the Central Excise Tariff is being amended so as to,—
- A. revise the statutory/tariff rates applicable to all excisable goods, that is, 12% for all non-petroleum goods other than exempted goods, goods attracting merit rate or higher duty rates. For petroleum goods, the *ad valorem* rate or *ad valorem* component (where the rates are mixed) is being revised to 14%
 - B. enhance the rate of excise duty from 5% to 6% on certain goods and from 22% to 24% and from “22%+ Rs.15000 per vehicle” to 27% on certain categories of automobiles. The composite rate applicable to automobile chassis is being converted into an *ad valorem* rate and is being fixed at 15% or 25%.
 - C. enhance the rate of excise duty on cigarettes (both filter and non-filter) of length exceeding 65 millimetres by adding an *ad valorem* rate of 10% to the existing specific rates of duty.
 - D. enhance the excise duty on cigars, cheroots and cigarillos to “12% or Rs.1370 per thousand, whichever is higher”.
 - E. carry out the following changes:
 - (i) omit the words “or polishing” in Note 6 of Chapter 25 so as to remove doubts about the correct classification of polished marble;
 - (ii) revise the description of tariff items 2611 10 to 2611 90 covering iron ore and concentrates based on Fe content;
 - (iii) insert a note in chapter 48 to provide that notwithstanding anything contained in Note 12, if the paper and paper products of heading 4811, 4816 or 4820 are printed with any character, name, logo, motif or format they shall remain classified under Chapter 48 as long as such products are intended to be used for further printing, to avoid classification disputes;
 - (iv) insert a note in Chapter 71 to provide that for the purposes of headings 7113 and 7114, the process of affixing or embossing trade name or brand name on articles of jewellery or on articles of goldsmiths’ or silversmiths’ wares of precious metal or of metal clad with precious metal, shall amount to “manufacture”;
 - (v) insert a note in Chapter 72 to provide that the process of oiling and pickling in respect of goods of heading 7208 shall amount to “manufacture”;
 - (vi) insert a note in Chapter 76 to provide that the process of cutting, slitting and printing of aluminium foils shall amount to “manufacture”;
 - (vii) insert a note in Chapter 85 to provide that the processes of matching, batching and charging of Lithium ion batteries or the making of battery packs shall amount to “manufacture”;
 - (viii) align the entries relating to copper scrap, brass scrap, nickel scrap, aluminium scrap, lead scrap and zinc scrap with the revised ISRI classification.
 - F. insert a note in chapter 54 to provide that notwithstanding anything contained in Note 1, man-made fibre such as polyester staple fibre and polyester filament yarn manufactured from plastic and plastic waste including waste polyethylene terephthalate bottles shall be classified as textile material under Chapter 54 or Chapter 55, as the case may be. This amendment is being carried out with retrospective effect from 29.06.2010. Duty in respect of clearances already made is to be recovered from the manufacturers of these goods within one month of the date of enactment of the Finance Bill, 2012 failing which interest at the rate of 24% is payable. Simultaneously, the manufacturers are being permitted to take into account credit of duty paid on inputs, input services and capital goods. [Clauses 141 and 142]

Changes involving increase in rates of duty would come into force immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

MISCELLANEOUS

- 1) The rate of cess leviable on indigenous petroleum crude oil under the Oil Industry (Development) Act, 1974 is being increased from Rs.2500 per metric tonne to Rs.4500 per metric tonne. [Clause 151]

- 2) The Seventh Schedule to the Finance Act, 2001 dealing with National Calamity Contingent Duty is being amended to incorporate the revision in length in certain duty slabs of cigarettes as a consequential change to amendments in the First Schedule to the Central Excise Tariff Act. [Clause 152]
- 3) The Seventh Schedule to the Finance Act, 2005 dealing with Additional Excise Duty (commonly known as the Health Cess) is being amended to incorporate the revision in length in certain duty slabs of cigarettes as a consequential change to amendments in the First Schedule to the Central Excise Tariff Act. [Clause 154]
- 4) Section 73 of the Finance Act, 2010 carried out retrospective amendments to certain provisions of the CENVAT Credit Rules so as to allow apportionment of credit on proportionate basis where common inputs or input services were used for the manufacture of exempted and dutiable goods. This section is being amended with retrospective effect to substitute the words "inputs" with "inputs or input service" so that the benefit of proportional credit reversal also applies to common input services. [Clause 155]
- 5) Section 73 of the Finance Act, 2011 is being amended to replace the reference to "Central Excise Tariff Act, 1985" with "Central Excise Act, 1944". The amendment is also being given retrospective effect from 08.04.2011. [Clause 156]

The changes at 1) above will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

OTHER CHANGES BEING CARRIED OUT THROUGH NOTIFICATIONS

CUSTOMS

A. General

- 1) The method of computation of Education Cess and Secondary & Higher Education cess on imported goods is being simplified. Currently, these cesses are first charged on the CVD portion of customs duty and thereafter on the aggregate of customs duties (excluding special CVD). The portion of cesses leviable on the CVD portion of customs duty is being exempted so as to avoid computation of such cesses twice.
- 2) The duty-free allowance under the Baggage Rules is being increased from Rs.25000 to Rs.35000 for adult passengers of Indian origin and from Rs.10,000 to Rs. 15,000 for children upto 10 years of age.

B. Proposals involving changes in rates of duty

I. AGRICULTURE/AGRO PROCESSING/PLANTATION SECTOR:

- 1) Basic customs duty on sugarcane planter, root or tuber crop harvesting machine and rotary tiller & weeder, parts & components for their manufacture is being reduced from 7.5% to 2.5%.
- 2) At present, project import status is available to installation of Mechanized Handling Systems & Pallet Racking Systems in mandis or warehouses for food grains and sugar, with concessional rate of basic customs duty of 5%. Such systems are also exempt from additional duty of customs (CVD) and special additional duty of customs (SAD). The same dispensation [i.e. 5% BCD + Nil CVD + Nil SAD] is also being extended to such systems for horticultural produce.
- 3) Project imports status is being granted to the green houses set up for protected cultivation of horticulture and floriculture produce. As such, these projects would attract concessional rate of basic customs duty of 5%.
- 4) Basic customs duty is being reduced from 10%/7.5% to 5% on specified coffee plantation and processing machinery. The concessional duty would be available upto 31.3.2014.
- 5) Basic customs duty is being reduced from 10% to 5% on coffee brewing and vending machines (commercial type). The concessional duty would be available upto 31.3.2014. Basic customs duty is also being reduced to 2.5% on parts required for manufacture of such coffee vending and brewing machines.
- 6) Basic customs duty is being reduced on specified soluble fertilizers and liquid fertilizers, other than urea, from 7.5% to 5% and from 5% to 2.5% respectively.

II. AUTOMOBILES:

Basic customs duty on Completely Built Units (CBUs) of large cars/ MUVs/ SUVs permitted for import without type approval (value exceeding US\$40,000 and engine capacity exceeding 3000cc for petrol and 2500cc for diesel) is being increased from 60% to 75%.

III. METALS:

- 1) Basic customs duty on coating material for manufacture of electrical steel is being reduced from 10% to 5% subject to actual user condition.
- 2) Basic customs duty on ammonium meta-vanadate used in the manufacture of ferro-vanadium is being reduced from 7.5% to 2.5%.
- 3) Nickel oxide/ hydroxide and nickel ore/ concentrate are being fully exempted from basic customs duty.

- 4) Exemption from SAD currently available to CRGO steel is being restricted to prime quality of such steel.
- 5) Basic customs duty on flat rolled products (HR and CR) of non-alloy steel is being increased from 5% to 7.5%.

IV. PRECIOUS METALS:

- 1) Basic customs duty on standard gold bars and platinum bars is being increased from 2% to 4%.
- 2) Basic customs duty on non-standard gold is being increased from 5% to 10%.
- 3) Basic customs duty on gold ore/concentrate and dore bars for refining is being increased from 1% to 2%.
- 4) Basic customs duty of 2% is being imposed on cut and polished coloured gemstones.

V. CAPITAL GOODS/INFRASTRUCTURE:

- 1) Basic customs duty on capital goods, plant and equipment imported for setting up or substantial expansion of iron ore pellet plants or iron ore beneficiation plants is being reduced from 7.5% to 2.5%.
- 2) Full exemption from basic customs duty is being provided to initial setting up and substantial expansion of fertilizer projects. The exemption would be valid till 31.03.2015.
- 3) Steam coal is being fully exempted from basic customs duty. CVD is also being reduced from 5% to 1% on such coal. This dispensation would be valid upto 31.3.2014.
- 4) Natural gas/Liquified Natural Gas imported for power generation by a power generation company is being fully exempted from basic customs duty.
- 5) Full exemption from basic customs duty is being provided to uranium concentrate, sintered natural uranium dioxide, sintered uranium dioxide pellets for generation of nuclear power.
- 6) Full exemption from basic customs duty, CVD and SAD is being extended to equipment imported for road construction projects awarded by Metropolitan Development Authorities.
- 7) Full exemption from basic customs duty and CVD at present available to tunnel boring machines for hydel and road projects is being extended to all infrastructure projects. The exemption shall also be available for parts required for assembly of such machines.
- 8) At present, full exemption from basic customs duty and CVD is available to specified road construction equipment. This exemption is now being extended to tunnel excavation and specified lining equipment also.
- 9) Full exemption from basic customs duty is being extended to coal mining projects.
- 10) At present machinery and instruments for surveying and prospecting of mines attract basic customs duty of 10% and 7.5% respectively. These rates are being reduced and unified at 2.5%.
- 11) Basic customs duty on Railway safety (Train Protection and Warning System) equipment and railway track laying machines is being reduced from 10% to 7.5%

VI. AIRCRAFTS & SHIPS:

- 1) Full exemption from basic customs duty and CVD is being provided to new and retreaded aircraft tyres.
- 2) Full exemption from basic customs duty and CVD is being extended to parts of aircraft and testing equipment for maintenance and repair of aircraft imported by third-party Maintenance, Repair and Overhaul (MRO) units.
- 3) CVD on foreign-going vessels on conversion for coastal trade shall now be charged on proportionate basis depending on the period for which it operates as a coastal vessel in India. The value shall be taken as the lease value when the import is against a lease agreement/ contract.

VII. ENVIRONMENT PROTECTION:

- 1) Equipments for setting up of solar thermal projects are being fully exempted from SAD.
- 2) Concessional rate of 5% basic customs duty is being extended to raw materials for the manufacture of intermediates, parts and sub-parts of blades for rotors for wind energy generators.
- 3) Full exemption from basic customs duty is being extended to tri band phosphor for use in the manufacture of Compact Fluorescent Lamps.
- 4) At present, full exemption from basic customs duty and SAD alongwith 6% CVD is available to specified parts for the manufacture of hybrid vehicles. This dispensation is now being extended to some additional parts for the manufacture of such vehicles.
- 5) The customs duty regime of Nil basic customs duty alongwith Nil SAD and 6% CVD is being extended to lithium ion batteries for the manufacture of battery packs for supply to electric or hybrid vehicle manufacturers.

VIII. HEALTH:

- 1) Basic customs duty is being reduced from 5% to 2.5% on iodine.
- 2) Basic customs duty is being reduced on isolated soya protein and soya protein concentrate from 15% and 30% respectively to 10%.
- 3) Basic customs duty is being reduced from 10% to 5% on probiotics.
- 4) Customs duty on six specified life saving drugs/vaccines and their bulk drugs is being reduced from 10% to 5% with Nil CVD (by way of excise duty exemption).
- 5) A concessional import duty regime of 2.5% basic customs duty with 6% CVD and Nil SAD is being prescribed for specified raw materials for the manufacture of syringes, needles, catheters, cannulae subject to actual user condition.
- 6) A concessional import duty regime of 2.5% basic customs duty with 6% CVD and Nil SAD is also being extended to parts and components for the manufacture of blood pressure monitors and blood glucose monitoring systems (Gluco-meters).
- 7) Full exemption from basic customs duty and CVD is being extended on steel tube & wire, cobalt chromium tube, Hayness Alloy-25 and polypropylene mesh for the manufacture of coronary stents/coronary stent systems and artificial heart valves subject to actual user condition.

IX. TEXTILES:

- 1) Basic customs duty on shuttleless looms, alongwith parts and components for their manufacture, is being reduced from 5% to Nil. The exemption would apply only to new machinery.
- 2) Basic customs duty on automatic silk-reeling and processing machinery and raw silk testing equipments is being reduced from 5% to Nil. The exemption would apply only to new machinery.
- 3) The concessional rate of basic customs duty of 5% is being restricted only to new textiles machinery. Consequently, second hand machinery would now attract basic customs duty of 7.5%.
- 4) Basic customs duty on wool waste and wool tops is being reduced from 10% and 15% respectively to 5%.
- 5) Basic customs duty on titanium dioxide is being reduced from 10% to 7.5%.
- 6) Full exemption from basic customs duty is being extended to aramid yarn and fabric when used in the manufacture of bullet proof helmets for supply to defence and police.

X. ELECTRONICS/HARDWARE:

- 1) Full exemption from basic customs duty is being provided to LCD and LED TV panels of 20 inches and above.
- 2) LEDs required for the manufacture of LED lamps are also being exempted from SAD
- 3) The scope of full exemption from basic customs duty, CVD and SAD presently available to parts, components and accessories for manufacture of mobile handsets including cellular phones is being amplified to include parts of memory cards. The validity of the exemption from SAD is also being extended from 31.03.2012 to 31.03.2013.
- 4) Full exemption from basic customs duty currently available to copper, brass and phosphor bronze strips and similar items imported for the manufacture of connectors is being withdrawn.
- 5) Full exemption from basic customs duty currently available to poly-laminated aluminium tape and poly-laminated steel tape presently exempt if imported for the manufacture of cables and conductors for telecom use is also being withdrawn.

XI. EXPORT PROMOTION:

- 1) Basic customs duty is being reduced from 10% to 5% on Marine seawater pumps with fibre impellers and Automatic fish/prawn feeders for aquaculture.
- 2) Basic customs duty on artemia is being reduced from 30% to 5%.

XII. PAPER:

Waste paper is being fully exempted from basic customs duty.

XIII. SPECIAL ADDITIONAL DUTY OF CUSTOMS:

Brass scrap, timber logs and dredgers are being fully exempted from SAD.

XIV. MISCELLANEOUS:

- 1) A basic customs duty of 10% is being imposed on Digital Still Cameras of certain specifications.
- 2) Basic customs duty on boric acid is being increased from 5% to 7.5%.
- 3) Basic customs duty on boiler quality tubes and pipes for the manufacture of boilers is being reduced from 10% to 7.5% subject to end use condition.
- 4) A concessional customs duty dispensation of 5% basic customs duty + 6% CVD+ Nil SAD is being prescribed for imports of hydrophilic non-woven, hydrophobic non-woven and super absorbent polymer for manufacture of adult diapers subject to actual user condition.

EXCISE

PROPOSALS INVOLVING CHANGES IN RATES OF DUTY

- 1) The effective rate of excise duty of 10% on non-petroleum products is being increased to 12% with a few exceptions where exemptions/concessions have been given.
- 2) Concessional rate of excise duty of 5% on non-petroleum products is being increased to 6%.
- 3) The lower rate of 1% on non-petroleum products is being increased to 2%. However, precious metal jewellery, coal and fertilizers would remain at 1%.

SECTOR SPECIFIC PROPOSALS

I. CEMENT:

The excise duty structure on cement manufactured and cleared in packaged form is being rationalized. The graded RSP slabs for the purpose of charging of duty on cement manufactured and cleared in packaged form are being done away with. The rates on cement and cement clinkers are also being revised as under:

Description	Revised rate of duty
1. cement manufactured and cleared in packaged form:—	
(a) from mini cement plants	6% ad valorem + Rs.120 per tonne
(b) from other than mini cement plants	12% ad valorem + Rs.120 per tonne
2. Cement cleared other than in packaged form.	12% ad valorem
3. Cement Clinker	12% ad valorem

Cement is also being notified under section 4A, that is, retail sale price (RSP) based assessment with an abatement of 30% from RSP.

II. PRECIOUS METALS:

- 1) At present, branded jewellery of precious metals attracts excise duty of 1%. The scope of the levy is extended to include unbranded jewellery within its ambit. However, the duty on such unbranded jewellery would be charged on 30% of transaction value declared in the invoice.
- 2) Unbranded silver jewellery is already exempt. Branded silver jewellery is being exempted from excise duty.
- 3) Excise duty on gold jewellery sold from EOUs into domestic tariff area (DTA) is being increased from 5% to 10%.
- 4) Excise duty on refined gold is being increased from 1.5% to 3%.
- 5) Excise duty on gold produced from copper smelting is being increased from 2% to 3%.
- 6) Excise duty on silver produced from copper smelting is being reduced from 6% to 4%.
- 7) Full exemption from excise duty is being provided on articles of goldsmith and silversmith wares of precious metals or of metals coated with precious metals, not bearing a brand name.
- 8) Gold coins of purity 99.5% and above and silver coins of purity 99.9% and above are being fully exempted from excise duty.

III. TOBACCO PRODUCTS:

- 1) Cigarettes are being notified under section 4A for RSP based assessment with abatement of 50% from RSP.
- 2) The basic excise duty on hand-rolled bidis is being increased from Rs.8 to Rs.10 per thousand and on machine-rolled bidis from Rs.19 to Rs.21 per thousand.
- 3) The rates of duty per machine applicable to pan masala, guthka, chewing tobacco, zarda scented tobacco and unmanufacture tobacco under the compounded levy scheme are being increased.

IV. MASS CONSUMPTION ITEMS:

- 1) Refills and inks used for the manufacture of writing instruments of value not exceeding Rs.200 per piece are being fully exempted from excise duty subject to actual user condition.

- 2) Exemption limit on footwear is being enhanced from Rs.250 per pair to Rs.500 per pair. Footwear above Rs.500 per pair would attract excise duty of 12%.
- 3) Excise duty on iodine is being reduced from 10% to 6%.

V. ENVIRONMENT FRIENDLY GOODS:

- 1) Excise duty is being reduced from 10% to 6% on battery packs supplied to manufacturers of electric vehicles for use as spares and OEMs subject to end-use condition.
- 2) Excise duty is being reduced from 10% to 6% on specific parts of Hybrid vehicles supplied to manufacturers of hybrid vehicles subject to end-use condition.
- 3) Excise duty on LED lamps is being reduced to 6%.

VI. TEXTILES:

- 1) For the purpose of charging excise duty on ready-made garments bearing a brand name or sold under a brand name, the level of abatement from the retail sale price (RSP) is being increased from 55% to 70%.

VII. MISCELLANEOUS:

- 1) Full exemption from excise duty is being provided to food preparations containing fruits and vegetables falling under Chapter 20, which are prepared in a hotel, restaurant or a retail outlet, whether or not such food is consumed in such hotels/restaurants/retail outlets.
- 2) Excise duty on parts of mobile phones, other than those cleared to a manufacturer of mobile phones, is being reduced from 10% to 2%, provided no Cenvat credit is taken.
- 3) Excise duty is being reduced from 10% to 6% on:
 - (a) Matches manufactured by semi-mechanized units
 - (c) Processed food products of soya
- 4) Exemption from excise duty is being restored on intra ocular lens.

SERVICE TAX

I. RATE OF SERVICE TAX:

- 1) The rate of service tax is being increased from ten per cent. to twelve per cent.
- 2) Consequent to change in the rate of service tax, changes are also being made in specific and compounding rates of tax for the following:
 - a) Service in relation to purchase and sale of foreign currency including money changing;
 - b) Service of promotion, marketing, organizing or in any manner assisting in organizing lottery;
 - c) Works contract service;
 - d) Reversal of cenvat credit under rule 6(3)(i).
- 3) *Life insurance service*: Where the entire premium is not towards risk cover, the first year's premium shall be taxed at the rate of three per cent. while subsequent premia shall attract tax at the rate of 1.5 per cent. Availment of full cenvat credit is being allowed.
- 4) *Transport of passengers* embarking in India for domestic and international journey by air : The dual rate structure of maximum service tax of Rupees 150 and Rupees 750 in case of economy class travel is being replaced by an *ad valorem* rate of twelve per cent. with abatement of sixty per cent. subject to the condition that no credit on inputs and capital goods is taken;

[The above changes will be applicable from 01.04.2012]

II. INTRODUCTION OF NEGATIVE LIST APPROACH:

A Negative List approach to taxation of services is being introduced vide new sections, namely, 65B, 66B, 66C, 66D, 66E and 66F proposed in Chapter V of the Finance Act, 1994 (please refer clause 143 of the Finance Bill, 2012). The services specified in the 'Negative List' (section 66D) shall remain outside the tax net. All other services, except those specifically exempted by the exercise of powers under section 93(1) of the Finance Act, 1994, would thus be chargeable to service tax. Negative list approach to taxation of services shall come into effect from a date to be notified, after the Finance Bill, 2012 receives the assent of the President. For operationalizing the Negative List approach, a number of changes have been proposed in Chapter V of the Finance Act, 1994. Detailed information regarding these changes is being made available as a Guidance Paper, which will be placed in the public domain. The consequential changes in Service Tax Rules, 1994, Service Tax (Determination of Value) Rules, 2006 and Cenvat Credit Rules, 2004 also form part of this Guidance Paper. Provisions relating to positive list approach, namely, sections 65, 65A, 66, and 66A currently appearing in Chapter V of the Finance Act, 1994, will cease to operate from a date to be notified later, as and when the negative list approach begins to operate.

To support the negative list approach to taxation of services, draft Place of Provision of Services Rules, 2012 is being proposed. The draft Place of Provision of Services Rules contains principles on the basis of which taxing jurisdiction of a service can be determined. The Place of Provision of Services Rules, 2012 will be notified after (section 66C) the Finance Bill, 2012 receives the assent of the President. When the Place of Provision of Services Rules comes into effect, existing 'Export of Services Rules, 2005' and 'Taxation of Services (Provided from outside India and received in India) Rules, 2006' will be rescinded.

III. AMENDMENTS IN THE FINANCE ACT, 1994:

Chapter V of the Finance Act, 1994 is being amended:

- 1) A new section 67A is being inserted to prescribe that the value of taxable service (particularly in the case of import and export of taxable services) and the rate of tax shall be determined in terms of Point of Taxation Rules, 2011.
- 2) A new section 72A is being inserted to introduce provisions relating to special audit in the service tax law on the lines of section 14A and section 14AA of the Central Excise Act, 1944. Under this newly introduced section, special audit can be ordered under specified circumstances. Consequently, section 14AA is being omitted from section 83.
- 3) The one-year time limit for issuance of notice for specified category of offences prescribed under section 73(1) of the Finance Act, 1994, is being increased to eighteen months. A new sub-section (1A) is being inserted in section 73 of the Finance Act, 1994 to prescribe that follow-on notices issued on the same grounds need not repeat the grounds but only state the amount of service tax chargeable for the subsequent period. Statement of tax due for the subsequent period, served on the assessee with reference to the earlier demand notice, will be deemed as a notice under section 73(1) of the Finance Act, 1994.
- 4) Section 83 is being amended to make Settlement Commission provisions applicable to service tax in line with the similar provisions contained in sections 31, 32, 32A to 32P of the Central Excise Act, 1944.
- 5) Section 83 is being amended to make the revision mechanism prescribed in section 35EE of the Central Excise Act, 1944, applicable to service tax, to the extent possible.

- 6) Section 85 and section 86 are being amended on the lines of section 35 and 35E of the Central Excise Act so as to harmonize the limitation for filing assessee appeal before Commissioner (Appeals) and revenue appeal before the Tribunal.
- 7) Section 94(2) is being amended to obtain powers (a) to provide for the manner of compounding and to specify the amount of compounding of offences along the lines of Central Excise (Compounding of Offences) Rules, 2005; (b) to provide for rules for settlement of cases, along the lines of central excise.

[The above changes will come into effect from the date of enactment of the Finance Bill, 2012]

IV. NEW REVERSE CHARGE MECHANISM:

- 1) Section 68(2) of the Finance Act, 1994 is being amended to put the onus of payment of service tax on reverse charge basis partly on service provider and partly on service receiver. The scheme is proposed to be made applicable on three specific services i.e. hiring of means of transport; construction and man power supply. A notification will be issued after the Finance Bill, 2012 receives the assent of the President, in which the manner and extent of service tax payable by service provider and service receiver in the case of the three services will be specified.
- 2) Consequent to the above change, suitable amendment is also being made in the concept of 'person liable to pay' provided in Rule 2(1)(d) of Service Tax Rules, 1994.

V. RENTING OF IMMOVABLE PROPERTY SERVICE:

Constitutional validity of the levy of service tax on renting of immovable property has been the subject matter of litigation leading to pronouncement of court judgments favorable to revenue, including those of Honourable Delhi High Court and Honourable Supreme Court. Taking an overall view, the Government has decided to waive the penalty for those taxpayers who pay the service tax due on the renting of immovable property service (as on 06.03.2012), in full along with interest. For this purpose, a new section 80A is being inserted in the Finance Act, 1994. This scheme of penalty waiver will be open only for a period of six months from the date of enactment of the Finance Bill, 2012.

VI. RETROSPECTIVE EXEMPTIONS:

- 1) Vide Notification No.24/2009-ST dated 27.07.2009 service tax on repair of roads is already exempted. Vide section 97 of the Finance Act, 1994, the exemption granted to repair of roads is being extended for the earlier period from 16.06.2005 to 26.07.2009.
- 2) Management, maintenance or repair service undertaken in relation to non-commercial Government buildings is being exempted from service tax vide section 98, with effect from 16.06.2005 till the new charging section, namely section 66B, comes into force.
- 3) In the last budget, sub-rule 6A was inserted under rule 6 of the Cenvat Credit Rules, 2004 to protect the service providers located in the Domestic Tariff Area from the reversal of Cenvat credit, when they supply taxable services under exemption, to the authorized operations of SEZ. The application of sub-rule 6A is being given retrospective effect from 10.02.2006 [clause 144 of the Finance Bill, 2012].
- 4) Service provided by an association of dyeing units in relation to common effluent treatment plants was exempted from service tax vide Notification No.42/2011-ST dated 25.07.2011. The scope of the exemption is being expanded and the amended notification is being given retrospective effect from 16.06.2005 [clause 145 of the Finance Bill, 2012].

[The above retrospective exemptions will come into effect on the date of enactment of the Finance Bill, 2012]

VII. AMENDMENTS IN RULES:

1) Cenvat Credit Rules, 2004 is being amended:

- (a) Existing rule 5 to be replaced with a new rule to simplify the procedure for refund of unutilized credit on the account of exports;
- (b) Credit is being allowed on motor vehicles (except those of heading nos. 8702, 8703, 8704, 8711 and their chassis). The credit of tax paid on the supply of such vehicles on rent, insurance and repair shall also be allowed;
- (c) Credit of insurance and service station service is being allowed to—
 - (i) insurance companies in respect of motor vehicles insured and re-insured by them; and
 - (ii) manufacturers in respect of motor vehicles manufactured by them.
- (d) At present, credit on goods can be taken only after they are brought to the premises of the service provider. Rule 4(1) and 4(2) are being amended to allow a service provider to take credit of inputs or capital goods whenever the goods are delivered to him, subject to specified conditions.
- (e) Rule 7 for input service distributors is being amended to provide that credit of service tax attributable to service used wholly in a unit shall be distributed only to that unit and that the credit of service tax attributable to service used in more than one unit shall be distributed prorata on the basis of the turnover of the concerned unit to the sum total of the turnover of all the units to which the service relates.

- (f) Rule 9(1)(e) is being amended to allow availment of credit on the tax payment challan in case of payment of service tax by the service receiver on reverse charge basis.

2) Service Tax Rules, 1994 is being amended as follows:

- (a) The time period provided in rule 4A for issuance of invoice is being increased to thirty days. For banks and financial institutions providing banking and other financial services, the period shall be forty five days;
- (b) Rule 6(4A) is being amended to allow unlimited amount of permissible adjustments.
- (c) At present, in the case of export and, individuals and firms rendering eight specified services, the point of taxation is the date of payment subject to certain conditions. This special dispensation is being shifted from the Point of Taxation Rules to the Service Tax Rules.
- (d) In case of exporters, the period extended by the Reserve Bank of India on specific requests is also being included in the period for which the tax liability is allowed to be deferred.
- (e) The option of deferred payment is being allowed for all service providers rather than for specific services. The facility will be available only to individuals and partnership firms (including limited liability partnership) upto a turnover of taxable services of Rupees Fifty lakhs subject to the condition that their turnover of taxable services in previous year was below Rupees Fifty lakhs. For computing the above limits, the turnover of the whole entity is required to be summed up and not any single registration.

3) Point of Taxation Rules, 2011 is being amended to—

- (a) Change the definition of continuous supply of service to capture the entire dimension of the concept, namely, the recurrent nature of services and the obligation for payment periodically or from time-to-time;
- (b) Omit rule 6 in respect of continuous supply of service and merge it with rule 3. Rules 4 and 5, which deal with situations covering change in effective rate of tax and taxation of new services, shall now be applicable to continuous supply of services also;
- (c) Define the date of payment;
- (d) To give an option to determine the point of taxation in respect of advances upto Rupees one thousand received in excess of the amount indicated in the invoice, on the basis of invoice or completion of service rather than payment; and
- (e) Incorporate a new residual rule to ascertain point of taxation in cases where the same cannot be ascertained by the rules prescribed.