

EXPLANATORY NOTES- CENTRAL EXCISE

GENERAL

Excise duty rate: - There is no change in the mean Cenvat rate of 8% *ad valorem*. However, the concessional excise duty rate of 4% has been increased to 8%, with certain exceptions like food products, pharmaceuticals products including drugs, papers, medical equipments and specified textiles machinery etc. Chapter-wise details are given below.

CHAPTERS 1 TO 20

No change.

CHAPTER 21

21.1 Appropriate classification is being indicated for Coffee or tea pre-mixes which are fully exempt from excise duty [S.No 22A of Notification No. 3/2006-CE dated the 1st March 2006 as amended by Notification No. 13/2009 –CE refers. Consequently, S.No.26A has been omitted]

CHAPTERS 22 TO 26

No change

CHAPTER 27

27.1 Basic excise duty on motor spirit commonly known as petrol intended for sale with a brand name is being converted from '6% + Rs 5 per litre' to a specific rate of Rs 6.50 per litre. Consequently petrol intended for sale with a brand name will attract total excise duty of Rs. 14.50 per litre. [S.No.17 of the Notification No. 4/2006-CE dated the 1st March 2006 as amended vide notification No. 14 /2009-C.E refers].

27.2 Basic excise duty on High speed diesel oil intended for sale with a brand name is being converted from '6% + Rs 1.25 per litre' to a specific rate of Rs 2.75 per litre. Consequently, High Speed Diesel intended for sale with a brand name will attract total excise duty of Rs 4.75 per litre. [S.No.19 of the Notification No. 4/2006-CE dated the 1st March 2006 as amended vide notification No. 14 /2009-C.E refers].

27.3 High speed diesel oil blended with alkyl esters of long chain fatty acids obtained from vegetable oils, commonly known as bio-diesels, up to 20% by volume is being exempted from basic excise duty, additional duty of excise and special additional duty of excise subject

to the condition that appropriate duties have been paid both on HSD and bio-diesel. [Sr. No. 24B of the Notification No. 4/2006-CE dated the 1st March 2006 as amended vide notification No. 14 /2009-C.E, notification No. 21 /2009-C.E. & S. No. 5 of notification No. 28/2002-Central Excise, dated the 13th May, 2002 as amended vide notification No. 8/2009-C.E, refer]

27.4 Excise duty rate on special boiling point spirits falling under tariff items 27101111, 27101112, 27101113 has been reduced to 14%. [S.No. 15 of notification No. 2/2008-Central Excise dated the 1st March, 2008 as amended vide notification No. 19/2009-C.E and notification No. 18 /2009-C.E refers]

27.5 Excise duty rate on Naphtha falling under heading 2710 has been reduced to 14%. [Notification No. 18/2009-CE issued in supersession of Notification No.23/2006-Central Excise, dated the 1st March 2006 refers. Consequently, S.No. 18 of the Notification No. 4/2006-CE dated the 1st March 2006 has been omitted vide notification No. 14/ 2009-C.E.]

27.6 Notification No. 4/2006-CE dated 1st March, 2006 has been amended so as to expressly provide that exemption from excise duty is available to Naphtha or Natural Gasoline Liquid –

- (a) for use in the manufacture of fertiliser and if such fertiliser is cleared as such from the factory of production; or
- (b) for use in the manufacture of ammonia, if such ammonia is used in the manufacture of fertiliser and such fertilizer is cleared as such from the factory of production.

The implication of these changes is that exemption to naphtha or NGL would not be available if they are used in the manufacture of fertiliser/ ammonia which in turn is used for manufacture of some other item.

[S. Nos. 7 and 7A of the notification No. 4/2006-C.E as amended/inserted vide notification No. 14/2009-C.E refers].

CHAPTER 28

No change.

CHAPTER 29

29.1 Excise duty on pure terephthalic acid (PTA) is being increased from 4% to 8% [S.No. 52C of the notification No. 4/2006-C.E as amended vide notification No.14/2009-C.E refers].

29.2 Excise duty on dimethyl terephthalate (DMT) is being increased from 4% to 8% [S.No. 52D of the notification No. 4/2006-C.E as amended vide notification No. 14/2009-C.E refers].

29.3 Excise duty on acrylonitrile is being increased from 4% to 8% (S.No. 52E of the notification No. 4/2006-C.E as amended vide notification No. 14/2009-C.E refers).

CHAPTER 30-31

No change.

CHAPTER 32

32.1 Excise duty on ink used in writing instruments is being increased from 4% to 8% (S.No 68A of the Notification No. 4/2006-C.E as amended vide notification No. 14/2009-C.E refers).

CHAPTER 33 TO 38

No change.

CHAPTER 39

39.1 Excise duty on polyester chips is being increased from 4% to 8% [S.No. 80A of the Notification No. 4/2006-C.E as amended vide notification No. 14/2009-C.E refers].

CHAPTER 40

40.1 Excise duty on Heat resistant latex rubber thread is being increased from 4% to 8% [S.No. 82 of the notification No. 4/2006-Central Excise as amended vide notification No 14/2009-CE refers].

40.2 Excise duty on Heat resistant rubber tension tape is being increased from 4% to 8% [S.No. 82A of the notification No. 4/2006-Central Excise as amended vide notification No 14/2009-CE refers].

CHAPTER 41 TO 42

No change.

CHAPTER 43

43.1 Excise duty on Raw, tanned and dressed fur skins is being increased from 4% to 8% [S.No. 86 of the notification No. 4/2006-Central Excise as amended vide notification No 14/2009-CE refers].

CHAPTER 44

44.1 Excise duty on all goods falling under heading 4408 (Sheets for veneering for plywood, similar laminated wood and other wood, of thickness not exceeding 6 mm) is being increased from 4% to 8% [S.No. 86B of the notification No. 4/2006-Central Excise as amended vide notification No. 14/2009-CE refers].

44.2 Excise duty on all goods falling under heading 4410 (particle board, oriented strand board, Fibre board and similar board of wood or other ligneous materials) and all goods falling under heading 4411 (Fibre board of wood or other ligneous materials) is being increased from 4% to 8% [S.No. 87 of the notification No. 4/2006-Central Excise as amended vide notification No. 14/2009-CE refers].

44.3 Excise duty on all goods falling under heading 4412 (Plywood, veneered panels and similar laminated wood) is being increased from 4% to 8% [S.No. 87B of the notification No. 4/2006-Central Excise as amended vide notification No.14/2009-CE refers].

44.4 Excise duty on Flush doors is being increased from 4% to 8% [S.No. 87C of the notification No. 4/2006-Central Excise as amended vide notification No. 14/2009-CE refers].

44.5 Excise duty on articles of wood, other than articles of densified wood is being increased from 4% to 8% [S.No. 1 of the notification No. 10/2006-Central Excise as amended vide notification No. 17 /2009-CE refers].

CHAPTER 45 TO 47

No change.

CHAPTER 48

48.1 Excise duty on all goods falling under heading 4820 {folders, file covers, manifold business forms & other articles of stationery, of paper or paperboard (except notebooks and exercise books)} is being increased from 4% to 8% [S.No. 2 of the notification No. 10/2006-Central Excise as amended vide notification No. 17/2009-CE refers]. Notebooks and exercise books continue to be exempted [S.No. 97 of notification no. 4/2006- Central Excise dated 01.03.2006]

48.2 Excise duty on paper and paperboard labels is being increased from 4% to 8% [S.No. 3 of the notification No. 10/2006-Central Excise as amended vide notification No. 17 /2009-CE refers].

CHAPTER 49

No change.

CHAPTER 50 TO 63

50.1 Excise duty on manmade filament yarn falling under headings 5402, 5403 and 5406 is being increased from 4% to 8% [S.No 1 of notification No. 5/2006-CE as amended vide notification No. 15/2009-CE refers].

50.2 Excise duty on manmade fibres (tow and staple fibres) falling under headings 5501 to 5507 has been increased from 4% to 8% [S.No 2 of notification No. 5/2006-CE as amended vide notification No. 15/2009-CE refers].

50.3 Excise duty on all textile goods made of pure cotton, not containing any other textile material, is being increased from nil to 4%. [Notification No 29/2004-CE as amended vide notification No. 11/2009-CE refers]. However, the said goods would be exempt from excise duty subject to non availment of Cenvat credit on input. [Notification No 30/2004-CE refers]. Thus, the exemption will be optional. Those opting to pay duty @ 4% will be eligible to avail Cenvat credit. The applicable rates for CVD purposes will be 4%.

50.4 Excise duty on all textile goods, made of manmade fibre/yarn or natural fibres/yarn other than cotton i.e. beyond the fibre/yarn stage is being increased from 4% to 8% [Notification No. 59/2008- CE dated 7th December, 2008, as amended vide notification No. 20/2009-CE refers]. However, the said goods would continue to be fully exempt from excise duty subject to non-availment of Cenvat credit on inputs. [Notification No 30/2004-CE refers]. A manufacturer, who takes credit of the duty paid on inputs, would be required to pay duty on the final product. The applicable rates for CVD purposes will be 8%.

50.5. Excise duty exemption has been provided to tops (man-made), made out of duty paid man-made tow procured from outside the factory using “tow-to-top” process. [S.No 10 A of notification No 30/2004-CE as inserted vide notification No. 12/2009-CE refers].

50.6 No intimation or permission will be necessary either for availing full exemption or paying duty and taking credit in cases as discussed above.

50.7 There is no change in excise duty rates on items such as, Nylon fishnet twine, made up fishing nets and nylon tyre cord fabrics etc, which already attract 8% excise duty with option of exemption from excise duty subject to non-availment of Cenvat credit on inputs.

50.8 There is no change in the rates of excise duty on textiles and textile articles, presently attracting 'Nil' rate by tariff or by notifications.

CHAPTER 64 to 67

No change

CHAPTER 68

68.1. Excise duty on goods in which not less than 25% by weight of fly ash or phospho-gypsum or both have been used, has been increased from 4% to 8% [S. No.9 of notification No. 5/2006- Central Excise has been amended vide notification No.15/2009-Central Excise].

68.2. Goods manufactured at the site of construction for use in construction work at such site have been fully exempted. This exemption was so far available only to the goods in which more than 25% by weight of red mud, press mud or blast furnace slag or one or more of these materials, have been used. This condition has now been removed, and exemption is available to all kinds of goods irrespective of use of these materials in such goods [S. No.10 of notification No. 5/2006- Central Excise has been amended vide notification No. 15/2009-Central Excise].

68.3. Excise duty on articles of mica has been increased from 4% to 8% [S. No.8 of notification No. 10/2006- Central Excise has been amended vide notification No. 17/2009-Central Excise].

68.4. Excise duty on solid or hollow building blocks, including aerated or cellular light weight concrete block and slabs, has been increased from 4% to 8% [S. No.9 of notification No. 5/2006- Central Excise has been amended vide notification No. 15/2009-Central Excise].

CHAPTER 69

69.1. Excise duty on ceramic tiles, manufactured in a factory not using electricity for firing the kiln, has been increased from 4% to 8% [S. No.13 of notification No. 5/2006- Central Excise has been amended vide notification No. 15/2009-Central Excise].

CHAPTER 70

No change

CHAPTER 71

71.1. Excise duty on articles of jewellery, on which brand name or trade name is indelibly affixed or embossed on the article of jewellery itself, has been reduced from 2% to 'nil' [S. No.26 of notification No. 10/2006- Central Excise has been amended vide notification No. 17/2009-Central Excise].

CHAPTER 72

No change.

CHAPTER 73

73.1 Excise duty on LPG Gas stoves has been increased from 4% to 8% [S.No. 36 of the notification No. 5/2006-Central Excise as amended vide notification No. 15/2009-CE refers].

CHAPTER 74 TO 83

No change.

CHAPTER 84 & 85

84.1 Excise duty on electronic milk fat tester and electronic solid non-fat (SNF) tester has been increased from 4% to 8%. [S. No. 19 of notification No. 6/2006-CE amended vide notification No. 16/2009-CE refers].

84.2 Excise duty on MP3/ MP4 or MPEG 4 players with or without radio/ video reception facility has been increased from 4% to 8%. [S. No 21 of notification No. 6/2006-CE amended vide notification No. 16/2009-CE refers].

84.3 Excise duty exemption on recorded smart cards and recorded proximity cards and tags has been made optional. Thus, a domestic manufacturer of recorded smart cards, recorded proximity cards and tags can pay the applicable excise duty if he chooses to and avail the credit of duty paid on the inputs. When these items are imported, CVD at 8% will be attracted. [S. No 22A & S. No 22B of notification No. 6/2006-CE amended vide notification No. 16/2009-CE refers].

84.4 Excise duty exemption has been provided to packaged software, subject to specified conditions, from so much of the duty of excise leviable thereon as is equivalent to the excise duty payable on the portion of the value which represents the consideration paid or payable for transfer of the right to use such software. [Notification No. 22/2009-Central Excise refers].

CHAPTER 86

No change

CHAPTER 87

87.1. Excise duty on motor vehicles of heading 8702 and 8703 having engine capacity exceeding 1999cc, has been reduced from 20% + Rs.20,000 per unit to 20% + Rs.15,000 per unit. [S.No.41A of notification No. 6/2006- Central Excise has been amended vide notification No. 16/2009-Central Excise].

87.2. Excise duty on petrol driven motor vehicles for transport of goods except dumpers of tariff item 8704 10 90 has been reduced from 20% to 8% [S. No.44 of notification No. 6/2006- Central Excise, dated 01.03.2006 has been amended vide notification No. 16/2009-CE]. Further, the excise duty on chassis of such petrol driven vehicles has been reduced from 20% + Rs.10,000 per chassis to 8% + Rs.10,000 per chassis [S. No. 51A has been inserted in notification No. 6/2006- Central Excise vide notification No. 16/2009-Central Excise].

CHAPTER 88 - 89

No change

CHAPTER 90

90.1 Excise duty on contact lenses has been increased from 4% to 8%. [S. No. 23 of notification No. 59/2008-CE amended vide notification No. 20/2009-CE refers].

90.2 Excise duty on parts of drawing and mathematical instruments, used in the manufacture of drawing and mathematical instruments has been increased from 4% to 8%. [S. No. 58 of notification No. 6/2006-CE amended vide notification No. 16/2009-CE refers].

90.3 Excise duty exemption has been provided on specified medical devices namely, Patent Ductus Arteriosus/ Atrial Septal Defect occlusion device. [S. No 68A of notification No. 6/2006-CE inserted vide notification No. 16/2009-CE refers].

CHAPTER 91-94

No change

CHAPTER 95

95.1 Excise duty on playing cards has been increased from 4% to 8%. [S. No. 24 of notification No. 59/2008-CE amended vide notification No. 20/2009-CE refers].

CHAPTER 96

96.1 Excise duty on all goods (except specified brooms) classified under heading 9603 of the Central Excise Tariff like paint brushes, shaving brushes, toothbrushes etc has been increased from 4% to 8%. [S. No. 75 of notification No. 6/2006-CE amended vide notification No. 16/2009-CE refers].

96.2 Excise duty on slide fasteners and parts thereof classified under heading 9607 of the Central Excise Tariff has been increased from 4% to 8%. [S. No. 75A of notification No. 6/2006-CE amended vide notification No. 16/2009-CE refers].

LEGISLATIVE AMENDMENTS

1. Amendments in First Schedule to the Central Excise Act, 1944: -

(i) Section 9A (2) of the Central Excise Act has been amended so as to exclude certain types of offences and circumstances from the purview of the compounding provisions. [Clause 103 of the Finance (No. 2) Bill, 2009 refers]. Consequently, section 37 of the Central excise Act has also been amended. [Clause 109 of the Finance (No. 2) Bill, 2009 refers].

(ii) Sections 14A and 14AA have been amended to provide that the Chief Commissioner may also nominate Chartered Accountants for conducting special audits under these provisions. [Clauses 104 and 105 of the Finance (No. 2) Bill, 2009 refer].

(iii) Section 23A has been amended to prescribe that the Authority for Advance Rulings authorised under section 28F of the Customs Act would be competent to deal with cases under the Central Excise Act as well. [Clause 106 of the Finance (No. 2) Bill, 2009 refers].

(iv) Sections 35G and 35H have been amended so as to empower High Courts to condone delay in the filing of appeals, applications as well as the memorandum of cross objections where it is satisfied that there was sufficient cause for delay. [Clauses 108 and 109 of the Finance (No. 2) Bill, 2009 refer].

2. Amendments in First Schedule to the Central Excise Tariff Act, 1985: -

(i) Note 1 of Chapter 8 in the First Schedule to the Central Excise Tariff Act, 1985 has been substituted so as to exclude 'betel nut product known as supari' of tariff item 2106 9030 from its purview.

(ii) A note has been inserted in Chapter 21 so as to provide that in relation to product of tariff item 2106 90 30 the process of adding or mixing cardamom, copra, menthol, spices, sweetening agents or any such ingredients, other than lime, katha (catechu) or tobacco to betel nut in any form shall amount to 'manufacture'.

(iii) In chapter 58 against tariff item 5801 2210 in column (3) and (4), the entry 'm²' and '8%' respectively is being inserted.

[Clause 111 of the Finance (No.2) Bill, 2009 refers]

3. Amendments in CENVAT Credit Rules 2004: -

(i) An explanation has been inserted in Rule 2 of the Cenvat Credit Rules 2004 so as to clarify that 'inputs' which are eligible for availing Cenvat credit shall not include cement, angles, channels, CTD or TMT bar and other items used for construction of shed, building or structure for support of capital goods. [Notification No. 16/2009-CE (NT) refers].

(ii) Rule 6(3) of the Cenvat Credit Rules, 2004 is being amended to prescribe that a manufacturer of both dutiable and exempted goods using common inputs, who does not maintain separate accounts, shall pay an amount equal to 5% of the total price of the exempted goods instead of 10%. [Notification No. 16/2009-CE (NT) refers].

4. Amendments in Central Excise Rules, 2002: -

A new rule has been inserted in the Central Excise Rules 2002 to provide that records seized by the department during an investigation but not relied upon in the Show Cause Notice should be returned to the party within 30 days of the issue of show cause notice or the completion of the period for issue of the show cause notice [Notification No. 17/2009-CE (NT) refers].

MISCELLANEOUS

1. The benefit of SSI exemption is being extended to printed laminated rolls bearing the brand name of another person by adding this item to the list of specified packing materials at para 4(e) of the exemption notification. The exemption for this item would be available for the first clearances for home consumption not exceeding Rs. 150 lakhs during the remaining period of this financial year i.e. 2009-10. [Notification No. 8/2003-CE dated the 1st March 2003 as amended vide notification No. 9/2009-C.E refers].

2. Excise duty exemption is being extended to Ethylene Vinyl Acetate (EVA) compound manufactured by a job worker, for further use in the manufacture of exempted foot wear, on par with PVC compound. [Notification Nos. 83/1994-CE and 84/1994-CE both dated the 11th April, 1994 as amended vide notification No.7/2009-C.E.].
3. Notification Nos. 33/97-CE (NT) dated 01.08.1997, 44/97-CE (NT) dated 30.08.1997 and 7/98-CE (NT) dated 10.03.1998, which relate to erstwhile compounded levy scheme for steel induction furnace units and re-rolling mills, are being amended with retrospective effect from the date of issue of the respective notifications so as to regularise fixation of rates of duty under these notifications [Clause 110 of the Finance (No.2) Bill, 2009 refers].
4. Excise duty on all goods of cotton, not containing any other textile material which is manufactured wholly out of indigenous raw material and cleared by EOU in domestic tariff area, is being increased from nil to 4% (S. Nos 5 and 7 of notification No. 23/2003-CE as amended vide notification No. 10/2009-CE refers)
5. Excise duty on all goods, (other than of cotton), which is manufactured wholly out of indigenous raw material and cleared by EOU in domestic tariff area is being increased from 4% to 8% [S. Nos 5A, 6 and 7A of notification No.23/2003-CE as amended vide notification No. 10 /2009-CE refers].
6. Consequent to increase in excise duty rates from 4% to 8% on certain items covered under RSP (Retail Sale Price) based assessment, the abatement rates have also been revised suitably.[Notification No. 18/2009-CE (NT) refers].