

Important Changes in Excise, Customs, Service Tax and Bill of Entry effective from April 1, 2016

Affirming that the economy is right on track, The Honorable Finance & Corporate Affairs Minister Shri. Arun Jaitley presented the Union Budget for 2016-17 on February 29, 2016. Although, Shri. Arun Jaitley in his 'Make in India' Budget speech laid more emphasis on agriculture, farmers welfare, infrastructure, social sector etc., but there are slew of changes in Indirect Taxes also, requiring attention of the Trade & Industry.

While most of these changes are already applicable from March 1, 2016 onwards, there are few changes which came into effect from April 1, 2016.

- **Central Excise**

1. **Further beneficial amendments in Cenvat Credit Rules:**

The central government has amended the Cenvat Credit Rules 2004 again, to (i) cap the amount of 6% or 7% payable under rule 6(3) at the total of credit taken during the period plus opening balance of credit available; and (ii) to align the documentation under rule 7B with that required under rule 9. The changes have been brought by notification 23/2016-CE(NT) dated 1 April 2016, which can be viewed at <http://cbec.gov.in/resources//htdocs-cbec/excise/cx-act/notifications/notfns-2016/cx-nt2016/cent23-2016.pdf>

- **Customs**

1. **New Baggage Rules vide Notification No. 30/2016-Customs (NT) dated March 1, 2016:**

The existing Baggage Rules, 1998 are being substituted with the Baggage Rules, 2016, so as to simplify and rationalize multiple slabs of duty free allowance for various categories of passengers.

In this regard, following notifications have been issued as regards the Baggage Rules, 2016:

- A. As per notification number 26/2016-Customs dated March 31, 2016 in the particular of Effective rate on duty on Baggage - Superseded Notification No. 136/1990-Customs dated March 20, 1990, according to which article exceeding specified limit shall be taxable @ 35% ad valorem. This rate of duty is not applicable to certain goods like alcohol in excess of two litres;
- B. As per notification number 27/2016-Customs dated March 31, 2016 - Superseded Notification No. 137/1990-Customs dated March 20, 1990, according to which specified persons after residing outside India for a particular period can import specified items upto specified limit (Rs.2,00,000/-or Rs.5,00,000/-) without payment of import duty, subject to conditions given in the notification, and beyond that limit shall be taxable @ 15% ad valorem for items given in Table -II;
- C. As per notification number 43/2016-Customs (NT) dated March 31, 2016 - Rules 3, 4, 6 and 7 of the Baggage Rules, 2016 has been amended.

2. **Exemption on wheat, butter oil:**

The central government has amended notification 12/2012-Customs so as to:

- (i) continue BCD @ 25% on import of wheat beyond 31.03.2016 upto 30.06. 2016, and
- (ii) retain BCD @ 40% on import of ghee butter and butter oil, beyond 31.03.2016 for a period upto 30.09.2016. The amending notification 24/2016-Customs dated 28 March 2016 can be viewed at <http://cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs24-2016>

3. Beneficiary added in exemption for diamonds for testing:

The central government has amended notification 40/2015-Customs to add a HRD Diamond Institute, Mumbai, as a beneficiary. The notification exempts customs duty on cut /polished diamonds imported for testing / certification. The amending notification 25/2016-Customs dated 30 March 2016 can be seen at <http://cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs25-2016>

4. Old baggage notification replaced:

The central government has rescinded notification 136/90-Customs, which prescribed effective rates of duty for baggage, and issued a new notification 26/2016-Customs dated 31 March 2016, effective from 1 April 2016, for the same purpose. The new notification can be seen at <http://cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs26-2016>

5. Deeper tariff concessions for Japan notified:

The central government has amended notification 69/2011-Customs in keeping with its obligations under the India-Japan Comprehensive Economic Partnership Agreement, to further reduce duties on selected tariff lines, effective from 1 April 2016. This has been done under notification 28/2016-Customs dated 31 March 2016, which can be seen at <http://cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-tarr2016/cs28-2016.pdf>

6. Safeguard duty on steel products extended:

Safeguard duty had been levied in September last year, under notification 2/2015-Customs (SG), on hot-rolled flat products of non-alloy and other alloy steel in coils of a width of 600 mm or more. This has been extended till March 2018, in phases of reduced duty from 20% till 10%, by issue of notification 1/2016-Customs (SG) dated 29 March 2016: <http://cbec.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-sg2016/cssg01-2016.pdf>. It is understood that the duty is meant to safeguard the domestic steel industry against cheap imports from China; a newspaper report can be perused at <http://www.thehindu.com/business/Industry/centre-extends-safeguard-duty-on-steel-imports/article8418832.ece>

7. Kakrawah appointed as land customs station:

Kakrawah in Siddharthnagar district of Uttar Pradesh has been notified as a land customs station for the purpose of clearance of baggage, passenger vehicles, and tourist vehicles to and from Nepal. This has been done under notification 42/2016-Customs dated 29 March 2016: <http://cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt42-2016>

8. Baggage Rules amended:

The central government has amended the Baggage Rules 2016 so as to make a marginal increase in the duty-free baggage allowances. The amendment, effective from 1 April 2016, has been made under notification 43/2016-Customs (NT) dated 31 March 2016, which can be seen at <http://cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt43-2016>

9. **Tariff values notified:**

The CBEC has issued notification 44/2016-Customs (NT) dated 31 March 2016 to revise tariff values for customs purposes, of specified commodities, under section 14 of the Customs Act 1962. Under this notification there is an increase in the value of edible oils, brass scrap and poppy seeds. However, there is a reduction in the value of gold in respect of which the benefit of entries at 321 and 323 of notification 12/2012-Customs is availed, to USD 402 per 10 grams (from USD 404 per 10 grams), and in the value of silver in respect of which the benefit of entries 322 and 324 of notification 12/2012-Customs is availed, to USD 502 per kilogram (from USD 509 per kilogram). The value of areca nuts remains unchanged. The notification can be seen at <http://cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt44-2016>

10. **No fee payable for clearance work by officers in 24 hour customs stations:**

Under the relevant rules, the importer / exporter has to pay a fee for clearance work by customs officers (i) in the customs area but beyond office timings, and (ii) outside the customs area. The CBEC has amended the rules to the effect that no such fee will be payable in category (i) in customs stations that work round the clock. See <http://cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfns-2016/cs-nt2016/csnt46-2016>

11. **CBEC issues instructions on duty exemption scrips:**

The CBEC has issued instructions to its field formation of customs to sensitise them to the issue of “non-genuine” duty exemption scrips that get past the customs officers in these formations. The instructions, issued under Circular number 12/2016-Customs dated 28 March 2016, reiterate earlier instructions and guide the officers on how to proceed in dealing with such scrips. The circular can be seen at <http://cbec.gov.in/htdocs-cbec/customs/cs-circulars/cs-circulars-2016/circ12-2016cs>

• **Service Tax**

1. **Service Tax is leviable under Reverse Charge on any services provided by Government or Local Authority to a Business Entity with effect from April 1, 2016:**

Effective from April 1, 2016, under clause (iv) of Section 66D(a) of the Finance Act, 1994 (“the Finance Act”), the words ‘support services’ will be substituted by the words ‘any service’ thereby, to exclude from the Negative List, any services provided by the Government or Local authority to a Business Entity [Section 109(1) of the Finance Act, 2015 read with Notification No. 06/2016-ST dated February 18, 2016].

However, the services provided by Government or Local authority to a Business Entity having turnover upto Rs. 10 lacs in the preceding Financial Year would remain exempt [New entry inserted vide after Entry No. 47 in the Mega Exemption Notification No. 25/2012- ST dated June 20, 2012 (“the Mega Exemption Notification”) amended vide Notification No. 07/2016-ST dated February 18, 2016].

The central government has amended the Point of Taxation Rules 2011 to provide that if there is a change in liability under reverse charge, and the service has been provided and invoice issued as on that date but payment not received, the point of taxation would be located at the date of invoice. This change, made by notification 21/2016-ST dated 30 March 2016 can be seen at <http://cbec.gov.in/resources//htdocs-servicetax/st-notifications/st-notifications-2016/st21-2016.pdf>

2. Amendment in the Reverse Charge Notification:

The Union Budget, 2016 vide Notification No. 18/2016-ST dated March 1, 2016, has amended Reverse Charge Notification No. 30/2012-ST dated June 20, 2012 (“the Reverse Charge Notification”), to delete the words “by way of support services” appearing at Sl. No. 6 of the Table in the said notification with effect from April 1, 2016.

3. Corresponding changes in Service Tax Rules, 1994 (“Service Tax Rules”) & the Finance Act:

Corresponding changes have also been made in Rule 2(1)(d)(i)(E) of the Service Tax Rules and Section 65B(49) of the Finance Act containing definition of the term ‘support services’ is also proposed to be deleted.

Thus, the liability to pay Service tax on any service provided by Government or a Local Authority to Business Entities shall be on the service recipient w.e.f. April 1, 2016 except (1) renting of immovable property, and (2) services specified in sub-clauses (i), (ii) and (iii) of clause (a) of Section 66D of the Finance Act.

4. Immediate clarification required:

Given that the definition of the term ‘service’ under Section 65B(44) of the Finance Act is wide enough to cover any activity carried out by a person for another for consideration, it appears that effective from April 1, 2016, all Governmental services (sovereign, regulatory fees, statutory charges etc.) would be exigible to Service tax - Immediate clarification is required from the Board to provide exclusion list of the Governmental services covered under the Service tax net.

5. Amendment in Section 66E of the Finance Act to be effective from date of enactment of the Finance Bill, 2016 (“FB, 2016”)-Mismatch in taxability for interim period:

In the Union Budget, 2016, under Section 66E of the Finance Act, after clause (i), clause (j) is proposed inserted to include “assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof” under the list of Declared services. Meaning thereby, assignment by Government of the right to use the spectrum as well as subsequent transfers of assignment of such right to use is a ‘service’ leviable to Service tax and not sale of intangible goods and the liability to pay Service tax will on the Business Entity under Reverse Charge. But such changes shall be effective from the date of enactment of FB, 2016, leading to dispute for taxability for the interim period i.e. from April 1, 2016 to date of enactment of FB, 2016.

• Bill of Entry

1. Bill of Entry (Electronic Declaration) (Amendment) Regulations, 2016:

In the Bill of Entry (Electronic Declaration) Regulations, 2011, (hereinafter referred to as the said regulations), in regulation 1, in sub-regulation (1), for the words Electronic Declaration, the words Electronic Integrated Declaration shall be substituted.

As per regulation 2 of the said regulations, please note:

- i. In clause (a), for the words the Customs House Agents Licensing Regulations, 2004, the words the Customs Brokers Licensing Regulations, 2013 shall be substituted;
- ii. Clause (b) shall be omitted;
- iii. In clause (c), for the words “includes its print-outs, the words include its electronic records or print outs shall be substituted.

The amending notification 45/2016-Customs (NT) dated 1 April 2016 is at <http://cbec.gov.in/htdocs-cbec/customs/cs-act/notifications/notfn-2016/cs-nt2016/csnt45-2016>