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New Delhi, the 28th February,2001

Dear Commissioner,

In the budget for 2001-2002, the Finance Minister has proposed a number of changes in excise, customs and service tax. The more important ones are mentioned below.

Excise

2. The highlight of the excise changes is that the three special excise duty rates of 8%, 16% and 24% have been converged into a single rate of 16%. With this, the excise *ad valorem* structure basically comprises one single rate of CENVAT(16%) and only one rate of SED(16%). This achievement has been described by the Finance Minister as the “almost ultimate” in the structure of excise.

3. As you are aware, the list of items (which attract 8% effective duty) 50% of CENVAT is limited to only a handful of items. These are cotton yarn including sewing thread, LPG, kerosene and diesel engines up to 10 HP.

4. A single rate of 16% of SED now applies to only the following items:

- 1) Cosmetics and toilet preparations
- 2) Tyres for cars, buses, trucks, etc.(Non-OE use)
- 3) Multi utility vehicles
- 4) Air-conditioners
- 5) Cars
- 6) Pan masala
- 7) Chewing tobacco products (miscellaneous category)
- 8) Aerated waters
- 9) Soft drink concentrate, if supplied to vending machines
- 10) White cement and other special cements
- 11) Yachts, pleasure boats, etc.
- 12) Arms and ammunition for private use
- 13) POY/PFY

With the rationalized duty structure now, the maximum rate of duty is 32%.

5. A new levy for National Calamity Contingent Duty (NC duty) has been imposed on cigarettes, biris, pan masala and miscellaneous tobacco products. It takes effect from 1.3.2001. In addition, pan masala containing tobacco (commonly known as Gutkha) has now been shifted

from Chapter 21 to Chapter 24. With this change, AED at the rate of 18% has also been imposed on such pan masala. Along with the NC duty, the total duty on pan masala containing tobacco is now 60%. Total duty on other pan masala is 55%.

6. Duty on cigarettes has been increased by imposing NC duty. The rates of duties are indicated in para 24.4 of the Explanatory Notes.

7. Duty on biri, after imposition of NC duty, is Rs.7 per one thousand biris.

8. The Finance Minister has increased the excise duty on HSD from 12% to 16% and also imposed SED on motor spirit.

9. Duty at the rate of 16% has been imposed on branded readymade garments. The scope of the levy covers all kinds of gents and ladies ready made garments like shirts, trousers, suits, skirts, babies garments, etc. and clothing accessories (like ties, handkerchiefs, scarves, etc.). It may be noted that the duty is confined to registered brand names only. It is important to point out that such garments are not eligible to SSI exemption. In the result, all such garments are now liable to pay duty from 1.3.2001.

10. The SSI exemption scheme has been withdrawn in respect of three commodities, namely, ball or roller bearings, cotton yarn and arms and ammunition (for private use). All units manufacturing these commodities will now pay the appropriate rate of duty w.e.f. 1.3.2001. Necessary action may, therefore, be taken to advise the units that were hitherto enjoying the benefit of exemption to pay the excise duty and register themselves with the excise department.

11. It is understood that the retail prices of such garments are clearly marked on the packing or indicated otherwise. For the ease of convenience, tariff value equal to 60% of the MRP has been fixed for such branded garments. The garment manufacturers would be eligible to claim CENVAT credit on inputs and capital goods as per the CENVAT Rules, including credit in respect of inputs in stock or contained in goods-in-process or in finished goods in stock as on 1.3.2001.

12. Being a new levy, the assesseees may not be conversant with Central Excise Law and procedure. Our officers would no doubt render all necessary cooperation and assistance in complying with the excise formalities. In particular, the job workers may require special guidance and assistance in proper understanding of the central excise formalities. You are requested to kindly advise your officers to ensure that no dislocation is caused in the production or marketing of goods by the new assesseees. Where any technical problem arises, the matter should be handled with practical wisdom and yet safeguarding the interest of revenue. I would like to request you to personally monitor the implementation of this new levy. In case any procedural problems are noticed, you may kindly examine them and make reference to me with your views and suggestions.

13. The scheme of compounded levy in respect of independent textile processors has been withdrawn. With effect from 1.3.2001, independent textile processors will pay excise duty on *ad valorem* basis. There should be no difficulty in implementing this change, considering the fact

that prior to December,1998, independent textile processors were paying excise duty on this basis.

14. Excise duty exemption on 10 items has been withdrawn. They will now be subjected to a duty of 4% but without the benefit of CENVAT credit. However, the manufacturers of these commodities have the option to pay duty at the normal rate of 16% availing of CENVAT benefit.

15. The scheme of SSI exemption is applicable to all the 10 commodities, except watches of MRP upto Rs.500 per piece. Thus watches will be liable to pay duty w.e.f. 1.3.2001. Manufacturers of other 9 commodities may not come in the effective tax net immediately owing to SSI exemption being applicable.

Service Tax

16. The highlight of service tax is that the tax has been imposed on 14 categories of new services, the most important being specified banking and other financial services. Service provided to lease circuit holders has also been added in the tax net. The tax on these services will come into force from a notified date(1.7.2001) after the Finance Bill is passed.

17. Definitions and other details of these services have been provided in the Finance Bill. I would like to request you to examine them and hold discussions with your officers, the concerned associations or individuals so as to identify areas of doubts. Thereafter, you may kindly send your views and suggestions to me so that such doubts can be clarified to all concerned. You are also requested to write to me, as early as possible, about any practical difficulties that are likely to arise in the implementation of tax on any of these services.

18. It is also to be noted that certain legislative changes have been proposed in the area of service tax. The most important is that the scheme of self assessment has been introduced. It is also stipulated that the original orders in service tax matter will be passed only by the Assistant Commissioner or Deputy Commissioner and not by other officers. These changes will, however, be effective from a date to be notified after the Finance Bill, 2001 is passed.

Customs

19. On the customs side, the important change is that surcharge of 10% has been abolished from 1.3.2001. The general peak rate of duty will now be 35% w.e.f. 1.3.2001.

20. Duty on gold has been reduced from Rs.400 to Rs.250 per 10 grams. Duty on baggage has now been fixed at a flat rate of 60% with no SAD, for the ease of convenience. TR baggage duty will be 35%(flat).

21. The other rate changes in respect of some individual commodities are explained in the Explanatory Notes.

22. A provision has been made for charging CVD on MRP basis. This CVD will operate in the same way as excise duty is applicable to goods notified under section 4A of the Central

Excise Act. For the sake of illustration, assume that the MRP indicated on a bottle of shampoo is Rs.200. In this case the CVD at the rate of 38.5% shall apply to 50% of Rs.200 i.e. on Rs.100, 50% being the abatement allowed on shampoos under section 4A. Notification No. 5 /2001-CE(NT) dated 1.3.2001 on the central excise side is, therefore, the reference notification for the purpose of the new mode of application of CVD on packaged goods. This system comes into force 1.3.2001 itself.

23. Provision has also been made for notifying a rate of CVD in respect of alcoholic liquors. The notification will be issued in due course. In this context, I would like to request you to contact the State Excise Commissioner and ascertain the current rate of State excise duty on different types of alcoholic liquors, wines, beer, etc. and send the details to me by 15th March, 2001.

24. The World Customs Organisation has approved amendments in the legal text of the HSN. These changes are being incorporated in the First Schedule to the Customs Tariff Act, 1975, with effect from a date to be notified later. The details of the changes proposed are contained in the Third Schedule to the Finance Bill.

Miscellaneous

25. A number of legislative changes have been introduced in the Central Excise Act as also the Customs Act. Interest would now be leviable from the first day of the month succeeding that in which the duty ought to have been paid in all cases, whether involving fraud or not. Another important feature is that the assesseees have been provided the opportunity to pay the dues within 45 days of the issue of Board's order under section 37B of the Central Excise Act or section 151A of the Customs Act and in that case they will not be liable to pay any interest on the short levy or non-levy.

26. The lacuna highlighted by the Supreme Court judgement in the *Kolhapur Cane Sugar Works* case has been overcome by making suitable provisions in the legislation which are proposed to be given retrospective effect from the dates of commencement of the Central Excise Act and the Customs Act.

27. It is also now provided that where the assessee notices the short levy or non-levy, he can pay it, along with interest, without a show cause notice and inform the jurisdictional officer accordingly. This would avoid the unproductive work of issuing a formal notice and confirming the demand in such cases. If, however, the assessee does not pay the short levy or non-levy in full, he will be liable to pay interest on the whole amount including the amount part paid as per the provisions of law.

28. The above provisions do not apply to cases in which the short levy arose on account of suppression of facts, collusion, etc. In these cases the normal proceedings of show cause notice and adjudication will follow.

29. Yet another significant change proposed relates to prescribing of time limits for passing of order-in-original and order-in-appeal by the Departmental Officers. In cases involving fraud,

suppression of facts etc. the time limit for passing the order-in-original is one year from the date of the notice and in other cases, it will be six months. Similarly, in the case of appeals, the time limit is six months from the date of filing of the appeal. Simultaneously, the time limit for filing appeal before the Commissioner (Appeals) is being reduced from 3 months to 60 days. It has also been proposed that Commissioner (Appeals) shall not remand the case back for de-novo adjudication but should decide the cases after making necessary enquiry, wherever required. These changes in the law will come into force on enactment of the Finance Bill.

30. The Finance Minister has also announced that the department would bring up-to-date Manuals of current procedures and instructions. He has laid emphasis on simplicity, brevity and transparency in their preparation. These new manuals are to be made available to the public by 1st September, 2001. It is thus imperative for us to undertake a comprehensive review of all the instructions and procedures and weed out the irrelevant and obsolete ones. Besides, the lengthy procedures and instructions are to be reduced to more user-friendly stuff. Needless to say that this is both a challenge and an opportunity for the department. We would be writing separately inviting your views and suggestions in this regard. In the meanwhile, it would be useful if you can hold seminars on this, involving also the officers at the cutting edge. And invite TRU officers, if you please!

31. The Central Excise Rules, 1944 have been in existence for long. It is widely perceived that quite a few of them have lost relevance or utility in the context of the changes that have since taken place in the administration of excise duties. Also, many of the rigidities and technicalities engulfing some of the rules are not compatible with the spirit of tax reforms. Quite a few rules seem to owe their birth to our succumbing to pressure to resolve trivial or peripheral issues. Some others appear to justify their existence to our weakness to remain attached to past, oblivious of the needs of present or future. It is in this context that the Central Excise Rules, 1944, are proposed to be replaced by a new set of Central Excise Rules, 2001. We have tried to keep in mind the aspects of simplicity and brevity in drafting the new rules. We have also been guided by the consideration that the rules need to act as a facilitator to the trade and industry and not be a material comprising complex and complicated reading.

32. I request that these rules may kindly be examined. You will also no doubt keep in mind the objective they are intended to serve. I shall await your valuable comments and suggestions. I would very much appreciate if you can send them to me by 15th April, 2001.

33. The new rules will come into force from 1st July, 2001. We will have, therefore, adequate time to take corrective action wherever necessary before the rules come into force.

34. I may clarify that rules relating to CENVAT scheme, Appeal procedure, etc. are proposed to be issued as separate rules and not amalgamated in the Central Excise Rules. Lest you rush to point out a serious lapse, this omission is deliberate!

35. The Explanatory Notes prepared by the TRU explain the details of individual changes. Any errors or omissions that might have crept in the Finance Bill or any of the notifications may kindly be brought to my notice urgently. Doubts on any matter requiring clarification may be referred to me by E-Mail or otherwise. We shall try to respond as early as possible.

36. All TRU officers and I shall be looking forward to know your comments and reactions on the budgetary changes.

With warm personal regards,

Yours sincerely,

(T.R. Rustagi)

To

All Commissioners of Customs & Central Excise

Copy for kind information to:

- (1) All Chief Commissioners of Customs and Central Excise
- (2) All Director Generals in the Customs and Central Excise Department