

Finance Act 2005

Chapter 8 - Miscellaneous

In section 3 of the Government Savings Banks Act, 1873, in the definition of "depositor", the following proviso shall be inserted, namely:--

'Provided that on and after the date on which the Finance Bill, 2005 receives the assent of the President, the provisions of this clause shall have effect as if for the words "a person", the words "an individual" had been substituted.'

Section 114 - Insertion of new section 8B in Act 2 of 1899

After section 8A of the Indian Stamp Act, 1899, the following section shall be inserted, namely:--

'8B. Corporatisation and demutualisation schemes and related instruments not liable to duty:--
Notwithstanding anything contained in this Act or any other law for the time being in force,--

(a) a scheme for corporatisation or demutualisation, or both of a recognised sk exchange; or

(b) any instrument, including an instrument of, or relating to, transfer of any property, business, asset whether movable or immovable, contract, right, liability and obligation, for the purpose of, or in connection with, the corporatisation or demutualisation, or both of a recognised sk exchange pursuant to a scheme,

as approved by the Securities and Exchange Board of India under sub-section (2) of section 4B of the Securities Contracts (Regulation) Act, 1956(42 of 1956), shall not be liable to duty under this Act or any other law for the time being in force.

Explanation.--For the purposes of this section,--

(a) the expressions "corporatisation", "demutualisation" and "scheme" shall have the meanings respectively assigned to them in clauses (aa), (ab) and (ga) of section 2 of the Securities Contracts (Regulation) Act, 1956(42 of 1956);

(b) "Securities and Exchange Board of India" means the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992(15 of 1992).'

Section 115 - Amendment of section 2 of Act 49 of 1950

Section 2 of the Contingency Fund of India Act, 1950 shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:--

"(2) On and from the date on which the Finance Bill, 2005 receives the assent of the President, the sum which shall be paid from and out of the Consolidated Fund of India into the Contingency Fund of India under sub-section (1) shall stand enhanced to five hundred crores of rupees."

Section 116 - Substitution of new Schedule for First Schedule to Act 58 of 1957

For the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Schedule specified in the Tenth Schedule shall be substituted.

Section 117 - Amendment of section 2 of Act 46 of 1959

In section 2 of the Government Savings Certificates Act, 1959, for clause (at, the following clauses shall be substituted, namely:--

'(a) "holder", in relation to a savings certificate, means--

(i) a person who holds the savings certificate issued in accordance with the provisions of this Act and of any rules made thereunder at any time before the date on which the Finance Bill, 2005 receives the assent of the President; and

(ii) an individual who holds the savings certificate issued in accordance with the provisions of this Act and of any rules made thereunder at any time on or after the date on which the Finance Bill, 2005 receives the assent of the President;

(aa) "minor" means a person who is not deemed to have attained his majority under the Majority Act, 1875(9 of 1875);'.

Section 118 - Substitution of new Schedule for Schedule to Act 40 of 1978

For the Schedule to the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, the Schedule specified in the Eleventh Schedule shall be substituted.

Section 119 - Amendment of Second Schedule to Act 21 of 1998

In the Finance (No. 2) Act, 1998, in the Second Schedule, for the entry in column (3), the entry "Rupee two per litre" shall be substituted.

Section 120 - Amendment of Second Schedule to Act 27 of 1999

In the Finance Act, 1999, in the Second Schedule, for the entry in column (3), the entry "Rupee two per litre" shall be substituted.

Section 121 - Amendment of section 10 of Act 54 of 2000

Section 10 of the Central Road Fund Act, 2000 shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:--

"(2) Notwithstanding anything contained in clause (viii) of sub-section (1), the Central Government shall, with effect from 1st day of March, 2005, allocate fifty paise from the amount of rupee two as amended by sections 119 and 120 of the Finance Act, 2005 as the additional duty of customs and the additional duty of excise on petrol, levied under sub-section (1) of section 103 and sub-section (1) of section 111, as the case may be, of the Finance (No. 2) Act, 1998(21 of 1998) and the additional duty of customs and the additional duty of excise on high speed diesel oil levied under sub-section (1) of section 116 and sub-section (1) of section 133, as the case may be, of the Finance Act, 1999(27 of 1999), exclusively for the development and maintenance of national highways."

Section 122 - Substitution of new Schedule for Seventh Schedule to Act 14 of 2001

For the Seventh Schedule to the Finance Act, 2001, the Schedule specified in the Twelfth Schedule shall be substituted.

Section 123 - Amendment of Act 32 of 2003

In the Finance Act, 2003,--

- (a) section 128 shall be omitted;
- (b) in section 134, the Explanation shall be omitted;
- (c) section 157 shall be omitted;
- (d) in section 169, the portion beginning with the words, "and the amendment so made" and ending with the words "repealed by a Central Act" shall be omitted with effect from the 31st day of March, 2005;
- (e) the Fourth Schedule shall be omitted.

Section 124 - Amendment of Act 23 of 2004

In the Finance (No. 2) Act, 2004,---

- (a) in section 88, after sub-section (4), the following sub-sections shall be inserted, namely:--

"(5) Notwithstanding anything contained in sub-section (4), the following procedure shall be followed for the recovery of the CENVAT credit of additional duty leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957(58 of 1957) which has been availed but which would not have been availed if the amendment made by sub-section (1) was in force at all material times (hereinafter referred to in this section as the amount of credit), namely:--

- (i) the Central Excise Officer shall, on or before the 25th day of May, 2005, serve notice on the person from whom the recovery is to be made (hereinafter referred to as the assessee), requiring the assessee to declare the amount of credit utilised by him on different dates for payment of duty of excise (hereinafter referred to as the CENVAT duty) leviable under the First Schedule or the Second Schedule to the Central Excise Tariff Act, 1985(5 of 1986);
- (ii) the assessee shall furnish the declaration as required under clause (i) on or before the 31st day of May, 2005;
- (iii) the Central Excise Officer shall, after considering the declaration made by the assessee under clause (ii), determine the amount of credit utilised on different dates for payment of CENVAT duty;
- (iv) the Central Excise Officer shall separately determine the amount of interest on the amount of credit (hereinafter referred to as the amount of interest) utilised for paying the CENVAT duty, in accordance with the provisions of clause (v);
- (v) the amount of interest on amount of credit utilised for paying the CENVAT duty shall be at a rate of thirteen per cent. per annum for the period beginning on and from the day when each time the amount of credit was so utilised and ending on the 10th day of September, 2004;
- (vi) the Central Excise Officer shall, on or before the 15th day of June, 2005, inform the assessee, in writing, the amount of credit and the amount of interest so determined under clauses (iii) and (iv);
- (vii) the assessee shall pay an amount equal to one-thirty sixth part of each of the amount determined under clauses (iii) and (iv) by the fifth day of every month, commencing from the month, following the month of receipt of information of the amount determined by the Central Excise Officer;
- (viii) the assessee may make payment on his own towards the amount of credit or, as the case may be, the amount of interest, in excess of the amount required to be paid upto a

particular month;

(ix) where the assessee pays the total amount of credit and the amount of interest so determined under clauses (iii) and (iv), respectively, the Central Excise Officer shall issue an order confirming the payment of credit and the amount of interest and discharging the assessee from any recovery of the amount of credit;

(x) for the purposes of this sub-section, it is hereby clarified that the amount of credit has been fully utilised first towards payment of the CENVAT duty before utilising the CENVAT credit of additional duty leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957(58 of 1957) paid on or after the 1st day of April, 2000 for payment of the CENVAT duty.

(6) Where the assessee fails to furnish the declaration as required under clause (i), or has furnished the declaration but failed to pay the amount by the day as specified in clause (vii), of sub-section (5), the provisions of sub-section (4) shall apply subject to the modification that the notice, requiring the assessee to show cause why he should not pay the amount specified in the notice, shall be served upon him within three months from the date of his such failure.";

(b) in section 94, in sub-section (1), clause (a) shall be re-lettered as clause (aa) thereof, and before clause (aa) as so re-lettered, the following clause shall be inserted, namely:--

"(a) the additional duty referred to in sub-section (5) of section 3 of the Customs Tariff Act, 1975(51 of 1975);".

(c) In section 98, in the Table, with effect from the 1st day of June, 2005,--

(i) against Sl. No. 1, under column (3) relating to rate, for the figures and words "0.075 per cent.", the figures and words "0.1 per cent." shall be substituted;

(ii) against Sl. No. 2, under column (3) relating to rate, for the figures and words "0.075 per cent.", the figures and words "0.1 per cent." shall be substituted;

(iii) against Sl. No. 3, under column (3) relating to rate, for the figures and words "0.015 per cent.", the figures and words "0.02 percent." shall be substituted;

(iv) against Sl. No. 4, under column (3) relating to rate, for the figures and words "0.01 per cent.", the figures and words "0.0133 per cent." shall be substituted;

(v) against Sl. No. 5, under column (3) relating to rate, for the figures and words "0.15 per cent.", the figures and words "0.2 per cent." shall be substituted.

Declaration under the Provisional Collection of Taxes Act, 1931

It is hereby declared that it is expedient in the public interest that the provisions of clauses 72, 74, 85, 86, 119, 120 and 123(d) of this Act shall have immediate effect under the Provisional Collection of Taxes Act, 1931(16 of 1931).