

Finance Act, 2010

Chapter IV - Indirect Taxes

In the Customs Act, 1962(52 of 1962) (hereinafter referred to as the Customs Act), in section 127B, in sub-section (1), for the words "but excluding the goods not included in the entry made under this Act", the words "or otherwise" shall be substituted.

Section 58 - Amendment of section 127C

In section 127C of the Customs Act, in sub-section (6). the following proviso shall be inserted, namely:--

"Provided that the period specified under this sub-section may, for reasons to be recorded in writing, be extended by the Settlement Commission for a further period not exceeding three months."

Section 59 - Amendment of section 127L

In section 127L of the Customs Act,--

(a) in sub-section (1),--

(i) the words, figures and letters "before the 1st day of June, 2007" shall be omitted;

(ii) in clause (i), after the words, brackets, figures and letter "sub-section (7) of section 127C", the words, figures, brackets and letter "as it stood immediately before the commencement of section 102 of the Finance Act, 2007(22 of 2007) or sub-section (5) of section 127C" shall be inserted;

(iii) in clause (ii), after the word, brackets and figure "sub-section (7)", the words, figures, brackets and letter "as it stood immediately before the commencement of section 102 of the Finance Act, 2007(22 of 2007) or sub-section (5) of section 127C" shall be inserted;

(b) sub-section (2) shall be omitted.

Section 60 - Amendment of notifications issued under sub-section (1) of section 25 of Customs Act

(1) The notifications of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 118(E), dated the 1st March, 2002 and number G.S.R. 92(E), dated the 1st March, 2006, issued under sub-section (1) of section 25 of the Customs Act, shall stand amended and shall be

deemed to have been amended retrospectively, in the manner specified in column (3) of the Second Schedule, on and from the corresponding date specified in column (4) of that Schedule, against each of the notifications specified in column (2) of that Schedule.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in said sub-section (1) with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section (1) of section 25 of the Customs Act, retrospectively, at all material times.

(3) No suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods, under any such rule, regulation, notification or order and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendments made in said notifications had been in force at all material times.

(4) Recovery shall be made of the amount which has not been paid but which would have been paid as if the amendments made in the manner specified in said subsection (1) had been in force at all material times.

Explanation.--For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the notifications referred to in this section had not been amended retrospectively.

Section 61 - Amendment of section 3

In the Customs Tariff Act, 1975(51 of 1975) (hereinafter referred to as the Customs Tariff Act), in section 3, in sub-section (2), for the first proviso, the following proviso shall be substituted, namely:--

"Provided that in case of an article imported into India,--

(a) in relation to which it is required, under the provisions of the Standards of Weights and Measures Act, 1976(60 of 1976) or the rules made thereunder or under any other law for the time being in force, to declare on the package thereof the retail sale price of such article; and

(b) where the like article produced or manufactured in India, or in case where such like article is not so produced or manufactured, then, the class or description of articles to which the imported article belongs, is--

(i) the goods specified by notification in the Official Gazette under sub-section (1) of section 4A of the Central Excise Act, 1944(1 of 1944), the value of the imported article shall be deemed to be the retail sale price declared on the imported article less such amount of abatement, if any, from such retail sale price as the Central Government may, by notification in the Official Gazette, allow in respect of such like article under sub-section (2) of section 4A of that Act; or

(ii) the goods specified by notification in the Official Gazette under section 3, read with clause (1) of Explanation III of the Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955(16 of 1955), the value of the imported article shall be deemed to be the retail sale price declared on the imported article less such amount of abatement, if any, from such retail sale price as the Central Government may, by notification in the Official Gazette, allow in respect of such like article under clause (2) of the said Explanation.

Explanation.--Where on any imported article more than one retail sale price is declared, the maximum of such retail sale price shall be deemed to be the retail sale price for the purposes of this section."

Section 62 - Amendment of First Schedule

The First Schedule to the Customs Tariff Act shall be amended in the manner specified in the Third Schedule.

Section 63 - Amendment of Second Schedule

In the Second Schedule to the Customs Tariff Act, against heading No. 16, in column (3), for the entry "Rs. 2500 per tonne", the entry "Rs. 10000 per tonne" shall be substituted.'

Section 64 - Amendment of section 11A

In the Central Excise Act, 1944(1 of 1944) (hereinafter referred to as the Central Excise Act), in section 11A, in sub-section (2B), after Explanation 2, the following Explanation shall be inserted, namely:--.

"Explanation 3.-- For the removal of doubts, it is hereby declared that no penalty under any of the provisions of this Act or the rules made thereunder shall be imposed in respect of payment of duty under this sub-section and interest thereon".

Section 65 - Amendment of section 32E

In section 32E of the Central Excise Act, in sub-section (1), for the words "but excluding the goods in respect of which no proper record has been, maintained by the assessee in his daily stock register", the words "or otherwise" shall be substituted.

Section 66 - Amendment of section 32F

In section 32F of the Central Excise Act, in sub-section (6), the following proviso shall be inserted, namely:--

"Provided that the period specified under this sub-section may, for reasons to be recorded in writing, be extended by the Settlement Commission for a further period not exceeding three

months."

Section 67 - Amendment of section 32-O

In section 32-O of the Central Excise Act,--

(a) in sub-section (1),--

(i) the words, figures and letters "before the 1st day of June, 2007" shall be omitted;

(ii) in clause (i), after the words, brackets, figures and letter "sub-section (7) of section 32F", the words, figures, brackets and letter", as it stood immediately before the commencement of section 122 of the Finance Act, 2007(22 of 2007) or sub-section (5) of section 32F," shall be inserted;

(iii) in clause (ii), after the word, brackets and figure "sub-section (7), the words, figures, brackets and letter ", as it stood immediately before the commencement of section 122 of the Finance Act, 2007(22 of 2007) or sub-section (5) of section 32F," shall be inserted;

(b) sub-section (2) shall be omitted.

Section 68 - Amendment of section 37

In section 37 of the Central Excise Act, in sub-section (2), after clause (xiii), the following clause shall be inserted, namely:--

"(xiiiia) provide for withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of CENVAT credit) on manufacturer or exporter or suspension of registration of dealer, for dealing with evasion of duty or misuse of CENVAT credit;".

Section 69 - Amendment of Central Excise Rules. 1944 by insertion of new rule 57CCC

(1) The Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (3) of the Fourth Schedule, on and from and up to the corresponding date specified in column (4) of that Schedule, against the rule specified in column (2) of that Schedule.

(2) Where a person opts to pay the amount in accordance with the provisions of the Central Excise Rules, 1944 as amended by sub-section (1), he shall pay the amount along with interest specified thereunder and make an application to the Commissioner of Central Excise along with documentary evidence and a certificate from a Chartered Accountant or a Cost Accountant certifying the amount of input credit attributable to the inputs used in or in relation to the manufacture of the final products, which are exempted from the whole of the duty of excise leviable thereon or chargeable to nil rate of duty, within a period of six months from the date on which the Finance Bill, 2010 receives the assent

of the President.

(3) The Commissioner of Central Excise shall, on receipt of an application under sub-section (2), verify the correctness of the amount paid within a period of two months from the date of receipt of the application and in case the amount so paid is found to be less than the amount payable, he shall call upon the applicant to pay the differential amount along with interest, which shall be paid within a period of ten days from the date of receipt of the communication from the Commissioner in this regard.

(4) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 1st day of September, 1996 and ending with the 31st day of March, 2000, relating to the provisions as amended by sub-section (1), shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times.

(5) Notwithstanding the supersession of the Central Excise Rules, 1944, for the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

Explanation.--For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this section not come into force.

Section 70 - Amendment of rule 57AD of Central Excise Rules, 1944

(1) In the Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, rule 57D, as substituted by rule 2 of the Central Excise (Second Amendment) Rules, 2000, published in the Official Gazette vide notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 203(E), dated the 1st March, 2000, and subsequently substituted as rule 57AD by rule 5 of the Central Excise [Second Amendment (Amendment)] Rules, 2000, published in the Gazette of India vide notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 298 (E), dated the 31st March, 2000, shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (3) of the Fifth Schedule, on and from and up to the corresponding date specified in column (4) of that Schedule against the rules specified in column (2) of that Schedule.

(2) Where a person opts to pay the amount in accordance with the provisions as amended by sub-section (1), he shall pay the amount along with interest specified thereunder and make an application to the Commissioner of Central Excise along with documentary evidence and a certificate from a Chartered Accountant or a Cost Accountant certifying the amount of input credit attributable to the inputs used in or in relation to the manufacture of the final products, which are-exempted from the whole of the duty of excise leviable thereon or chargeable to nil rate of duty, within a period of six

months from the date on which the Finance Bill, 2010 receives the assent of the President.

(3) The Commissioner of Central Excise shall, on receipt of an application under subsection (2), verify the correctness of the amount paid within a period of two months from the date of receipt of the application and in case the amount so paid is found to be less than the amount payable, he shall call upon the applicant to pay the differential amount along with interest, which shall be paid within a period of ten days from the date of receipt of the communication from the Commissioner in this regard.

(4) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 1st day of April, 2000 and ending with the 30th day of June, 2001 relating to the provisions as amended by sub-section (1), shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times.

(5) Notwithstanding the supersession of the Central Excise Rules, 1944, for the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

Explanation.-- For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this section not come into force.

Section 71 - Amendment of rule 6 of CENVAT Credit Rules, 2001

(1) In the CENVAT Credit Rules, 2001, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act and published in the Official Gazette vide notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 445(E), dated the 21st June, 2001, rule 6 shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (3) of the Sixth Schedule, on and from and up to the corresponding date specified in column (4) of that Schedule, against the rules specified in column (2) of that Schedule.

(2) Where a person opts to pay the amount in accordance with the provisions as amended by sub-section (1), he shall pay the amount along with interest specified thereunder and make an application to the Commissioner of Central Excise along with documentary evidence and a certificate from a Chartered Accountant or a Cost Accountant certifying the amount of input credit attributable to the inputs used in or in relation to the manufacture of exempted goods within a period of six months from the date on which the Finance Bill, 2010 receives the assent of the President.

(3) The Commissioner of Central Excise shall, on receipt of an application under subsection (2), verify the correctness of the amount paid within a period of two months from the date of receipt of the application and in case the amount so paid is found to be less than the amount payable, he shall call

upon the applicant to pay the differential amount along with interest, which shall be paid within a period of ten days from the date of receipt of the communication from the Commissioner in this regard.

(4) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 1st day of July, 2001 and ending with the 28th day of February, 2002, relating to the provisions as amended by sub-section (1), shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times.

(5) Notwithstanding the supersession of the CENVAT Credit Rules, 2001, for the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

Explanation.--For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this section not come into force.

Section 72 - Amendment of rule 6 of CENVAT Credit Rules, 2002

(1) In the CENVAT Credit Rules, 2002, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, and published in the Official Gazette vide notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 144(E), dated the 1st March, 2002, rule 6 shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (3) of the Seventh Schedule, on and from and up to the corresponding date specified in column (4) of that Schedule, against the rule specified in column (2) of that Schedule.

(2) Where a person opts to pay the amount in accordance with the provisions as amended by sub-section (1), he shall pay the amount along with interest specified thereunder and make an application to the Commissioner of Central Excise along with documentary, evidence and a certificate from a Chartered Accountant or a Cost Accountant certifying the amount of input credit attributable to the inputs used in or in relation to the manufacture of exempted goods within a period of six months from the date on which the Finance Bill, 2010 receives the assent of the President.

(3) The Commissioner of Central Excise shall, on receipt of an application under subsection (2), verify the correctness of the amount paid within a period of two months from the date of receipt of the application and in case the amount so paid is found to be less than the amount payable, he shall call upon the applicant to pay the differential amount along with interest, which shall be paid within a period of ten days from the date of receipt of the communication from the Commissioner in this regard.

(4) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 1st day of March, 2002 and ending with the 9th day of September, 2004, relating to the provisions as amended by sub-section (1), shall be deemed to be, and deemed always to have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times.

(5) Notwithstanding the supersession of the CENVAT Credit Rules, 2002, for the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power, to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

Explanation.--For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this section not come into force.

Section 73 - Amendment of rule 6 of CENVAT Credit Rules, 2004

(1) In the CENVAT Credit Rules, 2004, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, as published in the Official Gazette vide notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 600(E), dated the 10th September, 2004, rule 6 shall stand amended and shall be deemed to have been amended retrospectively, in the manner specified in column (3) of the Eighth Schedule, on and from and up to the corresponding date specified in column (4) of that Schedule, against the rule specified in column (2) of that Schedule.

(2) Where a person opts to pay the amount in accordance with the provisions as amended by sub-section (1), he shall pay the amount along with interest specified thereunder and make an application to the Commissioner of Central Excise along with documentary evidence and a certificate from a Chartered Accountant or a Cost Accountant, certifying the amount of input credit attributable to the inputs used in or in relation to the manufacture of exempted goods, within a period of six months from the date on which the Finance Bill, 2010 receives the assent of the President.

(3) The Commissioner of Central Excise shall, on receipt of an application under subsection (2), verify the correctness of the amount paid within a period of two months from the date of receipt of the application and in case the amount so paid is found to be less than the amount payable, he shall call upon the applicant to pay the differential amount along with interest, which shall be paid within a period of ten days from the date of receipt of the communication from the Commissioner in this regard.

(4) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 10th day of September, 2004 and ending with the 31st day of March, 2008, relating to the provisions as amended by sub-section (1), shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or

done as if the amendment made by sub-section (1) had been in force at all material times.

(5) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

Explanation.--For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this section not come into force.

Section 74 - Amendment of notification issued under rule 5 of CENVAT Credit Rules, 2004

In the notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 156(E), dated the 14th day of March, 2006, issued under rule 5 of the CENVAT Credit Rules, 2004, with effect from the 14th day of March, 2006,--

(A) in the opening portion,--

(i) in clause (a), for the words "used in", the words "used in or in relation to" shall be substituted and shall be deemed to have been substituted;

(ii) in clause (b), for the words "used in", the words "used for" shall be substituted and shall be deemed to have been substituted;

(B) in the Appendix, in condition 5, the portion beginning with the letters and words "i.e. Maximum refund" and ending with the letters and figures "i.e. Rs. 50" shall be omitted and shall be deemed to have been omitted.

Section 75 - Amendment of First Schedule to Act 5 of 1986

The First Schedule to the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act) shall be amended in the manner specified in the Ninth Schedule.
