

Amendments of 16 <sup>th</sup> Editions and few earlier also (Note: page no. is of 16 <sup>th</sup> Edition)		
<b>CENTRAL EXCISE</b>		
Page no.	Ref.	Details
1.5	Movability and Marketability	Aluminium/Zinc Dross & Bagasse & Other waste products – Excisable (Circular No. 904/24/09-CX, dtd. 28-10-2009 - Capable of being sold.
1.8	Deemed Manufacturing	Betel nut product known as “Supari” - 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. (W.e.f 7-7-2009)- is manufacturing
1.10	Deemed Manufacturing	CCEx. V. Sony Music Entertainment (I) Pvt. Ltd.(2010) 249 ELT 341 (Bom.)- Imported recorded audio and video discs packed in boxes of 50 repacked in transparent plastic cases. <b>Decision-</b> No Manufacture Involved.
1.10	Deemed Manufacturing	Circular No. 910/30/2009- CX. Dated 16-12-2009 – Transferring Chemicals from tankers into small drums not manufacture. It is not repacking from bulk packs to retail packs and cannot be said to be covered by deemed manufacture.
1.12	Marketability	Bata India Ltd. V CCEx (2010) 252 ELT 492 (SC) – Marketability doesn’t mean hypothetical possibility of purchase and sale; it means commercial capability of being bought and sold.
2.6	Classification	Pleasantime Products v. CCEx. (2009) 243 ELT 641 (SC). Scrabble is a ‘game’. It is not puzzle, as it involves an element of chance and skill and, further, solution is not fixed in a scrabble, as in the case of a puzzle It is not a ‘toy’ as toy is for amusement/ playing and doesn’t involve any skill.
2.8	Classification	Snake & Ladder and Monopoly are ‘games’ not ‘toys’, CCEx. V. Funskool (India) Ltd. (2009) 244 ELT 3 (SC).
2.14	Sec.37B	Adjudicating authority not bound by circular.- Varsha Plastics Pvt. Ltd. V. UOI(2009) 235 ELT 193 (SC).
3.29	Valuation Based on Retail Sales Price – Section 4A	Circular No. 915/5/2010- CX. Dated 19-2-2010- Samples of goods notified u/s 4A- To be valued at deemed value computed u/s 4A : The value of goods given away be way of free samples, or gifts/donations, etc. shall be the value computed as per Rule2000. Hence, in case of samples/ gifts/ donations of goods notified u/s 4A of the Act, the value under Rule 4 for payment of excise duty shall be the value determined under section 4A for the similar goods (subject to adjustment for size & pack etc).
4.6	Input-loss during transit	CCEx. Bhuwalka steel industries LTD (2010) – Credit not deniable on inputs lost during transit, if loss within normal limits.
4.11	CENVAT Credit-Capital goods -Rule 2(a)	Components essential to run a machine in an industry- capital goods {circular No.920/10/2010-CX dated 1-4-2010} : since the alumina balls/ceramic pebbles are essential to run the ball mill cannot function without the grinding media, hence, they should be considered as component/part of the machines to be classified as “capital goods”.
4.14	Cenvat-payment to vendor irrelevant	CCEx Suntech Glasses Pvt. Ltd [2010]- the assessee didn’t pay full duty stated in the invoice. <b>Decision-</b> Assessee eligible for full credit, so long as full duty paid
4.16	Cenvat	<u>Capital goods removed after 10 years’ use</u> – To be treated as cleared as waste/scrap & duty leviable on transaction value [Instruction F No.267141/2009-CX, dated 7-12-2009] Sale of waste of packing materials on which credit aviled – No reversal required [CBEC]
4.23	SSI-capital goods cenvat-	<u>Units eligible for SSI-exemption</u> : where an assessee is eligible to avail of the exemption under a notification based on value of clearances in a financial year (i.e. where an

	100% in first year-Rule-4	assessee is eligible for SSI- exemption), the CENVET credit in respect of capital goods receipt by such assessee shall be allowed for 100% of the duty paid on such capital goods in the same financial year.
4.26	Sec 5B	The CBEC Circular No.911/1/2010-CX. Dated 14-1-2010 provides that in a case where an assessee pays duty and avails CENVET credit and, subsequently carried on by the assessee is held as not amounting to manufacture, then, assessee should approach Central Government for issue of appropriate notification u/s 5B of the Central Excise Act, 1944 for regularization of the CENVET Credit availed. [Authors' Note: Even otherwise, it was held in CCEx. V. creative Enterprises [2009] 243 ELT A120 (SC) that even if activity of assessee not amounted to manufacture, the credit is not deniable so long as duty stands levied on the product of the assessee. Therefore, even if M/s A&Co. doesn't apply to the Central Government under said section 5B, it shall not be liable to reverse the credit.
4.31	Cenvat-input service for capital goods	Circular No. 1/2009 dated 5-5-2009 –Inputs services used in related to 'capital goods' – Rule 6 applicable – Credit not available to the extent input service used in exempted goods/service : If a manufacture of dutiable as well as exempted goods and a provider of taxable as well as exempted services avails of input services such as GTA, Erection &commissioning, Maintenance, insurance etc. in relation to the capital goods, which are, in turn, used in manufacture of final products or in providing the output service, then, CENVET credit on such input services shall be subject to the restrictions provided in Rule 6. Rule 6(4), which permits CENVET credit on capital goods even if they are partly used for exempted goods/services, cannot apply to input services used in relation to capital goods. Rule 6 restricts credit of duty paid on all inputs and credit of services tax paid on all inputs services irrespective of whether the input services are related to capital goods or otherwise. Therefore, CENVAT credit of such inputs services shall not be available to the extent they are used exempted goods/services and shall be Governed by conditions and restrictions imposed by Rule 6.
4.A5	Cenvat-capital goods removed after use –Rule 3	Provide further that if the capital goods, on which CENVAT credit has been taken, are removed after being used, the manufacture or provider of output services shall pay an amount equal to the CENVET credit taken on the said capital goods reduced by the percentage point calculated by straight line method as specified below for each quarter of a year or part thereof from t6he date of taking the CENVET credit, namely:- (a)for computers and computer peripherals :  For each quarter in the first year @10% For each quarter in the second year @8% For each quarter in the third year @5% For each quarter in the fourth and fifth year @1%  (b)for other-@2.5% for each quarter <b>Note: quarter not quarter or part thereof</b>
4.A17	Cenvat –Rule 15 amended	Confiscation and penalty:-  If any manufacturer avails or utilizes Cenvat credit in respect of input or capital goods or service tax wrongly , then not only those goods shall be liable to be confiscated, but also liable for penalty which may extend to amount of duty / tax involved or Rs. 2000, whichever is more. Also if such mistake is willful / fraudulent / malafide, then manufacturer shall also be required for penalty u/s 11 AC.  Similarly, if any service provider avails or utilizes Cenvat credit in respect of input or

		capital goods or service tax wrongly , then not only those goods shall be liable to be confiscated, but also liable for penalty which may extend to amount of duty / tax involved or Rs. 2000, whichever is more. Also if such mistake is willful / fraudulent / malafide, then manufacturer shall also be required for penalty u/s 78 of the Finance Act, 1994.  However, assessee shall be given an opportunity of being heard.
5.A6	Rule 8-modified	Manner payment of duty:-  The duty on goods removed during a month shall be paid by the 5 <sup>th</sup> day of the following month. In case of SSI, the duty on goods cleared during a <b>quarter</b> shall be paid by <b>5<sup>th</sup> day of the following month</b> . This date shall be 6 <sup>th</sup> day if duty is being deposited by internet banking. This procedure shall be applicable for the whole of the year.  It is mandatory to deposit by internet banking for assessee who has paid excise duty of Rs.10 lacs (PLA or cenvat)and above in preceding year.  Duty of March month has to be paid by 31 <sup>st</sup> of the March itself.
5.A8	Rule 11	Omitted Wef. 1/4/2010-Clause that owner or authorised person to sign each foil of invoice before bringing into use of each invoice
5.A8	Rule 12	Modified Wef. 1/4/2010 Every assessee is required to file monthly return in proper form (ER - 1) within 10 days after month end. SSI are required for filing quarterly return, within <b>10</b> days after quarter end (Form ER – 3). This procedure shall be applicable for the whole of the year. It is mandatory to file electronic return for assessee who has paid excise duty of Rs.10 lacs (PLA or cenvat) and above in preceding year.
18.4	Recovery of Sums due to government	UOI V. socom Ltd. (2009) 233 ELT 433(SC) – Secured debt shall have priority over Central Excise Dues.
19.10	Appeal to the appellate tribunal	ACIT V. Saurashtra Kutch Stock Exchange Ltd (2008) 230 ELT 385 (SC) – Non-consideration of Supreme/High Court judgment- Mistake apparent from record: even if such decision is rendered subsequent to the passing of original order
20.2	Advance Ruling	Public Sector companies and project Imports- Eligible to file an application for advance ruling 20-8-2009
20.7	Procedure for filing application	Sanghvi Reconditioners Pvt. Ltd. V UOI (2010) 251 ELT 3 (SC). – Where the settlement Commission based on the report of the commissioner find that the applicant has not made full and true disclosure of his duty liability before settlement Commission the application for settlement is not maintainable.
<b>CUSTOMS</b>		
7.9	DTA to SEZ Whether Export?	Essar Steel Ltd. V. UOI (2010) 249 ELT 3 (Guj.) – In case of goods cleared from DTA (Domestic Tariff Area i.e. Non-SEZ area) to SEZ, the said goods are 'deemed to be exported' but only for the limited purpose of allowing export incentives to the seller. The same cannot be export for the purpose of levy of export duty.
10.7	Custodians of Cargo and Clearance of Imported Goods	Mysore Sales International Ltd. V United India Insurance Co Ltd (2009) 243 ELT 161(Kar) – Goods imported destroyed by fire in the custody of the custodian. <u>Question:</u> Whether custodians alone or Customs authorities alone or both are jointly and severally liable to damages? <u>Decision</u> – Both liable jointly and severally.
11.3	Warehousing	Tanfac Industries Ltd. V. CC (2009) 244 ELT A121 (SC)- The importer cleared from

	Bond, Warehousing Period.- Payment with DEPB credit	warehouse after the expiry of warehousing period of 91 days, paying duty by utilizing the export incentive ( DEPB credit) allowed to it under export incentive scheme. The debit of any amount under the DEPB Scheme is a mode of payment of duty on the imported goods. But they can only be treated to be duty-paid goods and therefore the interest is payable as per section 61(2) of the Act.
12.6	Drawback on imported Materials used in the Manufacture of goods which are exported	Circular No. 7/2010- Cus. Dated 23-3-2010:- Drawback not payable where export proceeds not realized (i.e. bad debts of export proceeds even if claim settled by ECGC or realization waived by RBI.
18.14	<b>26A</b> -Refund of import duty if found defective etc. afterwards and exported/relinquished/destroyed	<b>Refund of import duty if found defective etc. afterwards and exported/relinquished/destroyed</b> If after removal, within 30 days ( may be extended by Commissioner for 3 months) from order for clearance for home consumption, found defective or not as per specification and identified to the satisfaction of AC/DC and not repaired etc., whatever duty was paid at the time of import shall be refunded, provided either they are exported back , title is relinquished, or destroyed in presence of proper officer and refund has to be claimed within 6 months of export/relinquishment/destroyed. However benefit of this provision is not available if an offence appears to have been committed or goods are perishable or exceeded its shelf life. Board may impose additional conditions by Notification.
<b>SERVICE TAX</b>		
15.2	Service Tax -Scope	Service Tax extends to the continental Shelf & Exclusive Economic Zone (CS&EEZ) of India and Installation, structures and vessels within the continental shelf and the exclusive for the purposes of prospecting or extraction or production of mineral oil and natural gas (Notification No. 14/2010-S.T., dated 27-2-2010)
15.8	Classification and Valuation of Services	CCEx. V. Advantage Media Consultant (2009) 14 STR J49 (SC) – Where the assessee fails to collect service tax the total receipts for rendering services should be treated as inclusive of service tax.