KOCHHAR & CO.
ADVOCATES & LEGAL CONSULTANTS

Finance Bill Passed

The Finance Bill, 2010 has been passed by both Houses of Parliament & has now received President's assent. With the passage of the Finance Bill all the provisions of the Union Budget have been enacted.

Notifications/Circulars

Changes have been incorporated vide the following notifications/circulars:

SERVICE TAX

1. Notification No.23/2010-ST, dated 29th April, 2010:Services provided by a Commercial Training or Coaching Centre, in relation to modular employable skill courses which are approved by the National Council of Vocational Training shall be exempt from payment of Service tax, provided the vocational trainer is registered under the Skills Development Initiative Scheme of the Directorate General of Employment & Training , Ministry of Labour & Employment

EXCISE

1. Notification no.19/2010-Employment & Training , Ministry of Labour & Employment CE-(NT),

Dated 29th April, 2010: The Central Government has provided abatement of 30 percent on sale of parts, components & assemblies of goods falling under tariff headings 8426 41 00, 8427, 8429 & 843010 which are to be sold on MRP as per sub-section (2) of Section 4A of the Central Excise Act.

2. Notification no.17/2010-CE(NT),dated 13th April, 2010: Scented jarda manufactured with the aid of packing machines as notified goods & packed in pouches would be classified under HSN Classification no.2403 99 30 of the First Schedule. Further, this item would be chargeable to Excise Duty as per Section 3A of the Central Excise Act.

3. Circular No.919/09/2010-CX dated 23rd March, 2010: The Central Government has announced the procedure for payment of Service tax & Excise duty & filing of Returns by assesses online, through electronic mode. These instructions are to be mandatorily followed by assesses who have paid Rs.10lacs or more of Excise duty or Service tax in the previous year.

CUSTOMS

1. Notification no.54/2010-Cus, dated 29th April, 2010: Vide this notification, the Central Government has reduced the Customs Duty on the following items by amending notification no.21/2002-Cus, dated 1st March, 2002:

A) Duty on stainless steel scrap used for melting purposes reduced from 5 percent to 2.5 percent

B) Duty on specific medical equipment, accessories & parts used for managing Colostomy, Illcostomy, Ureterostomy, etc. reduced from 10 percent to 5 percent

C) Goods falling under Chapter Heading No.5301 are now subjected to nil Customs Duty as against 5 percent applicable earlier

D) Duty on tunnel boring machines, parts & components, falling under any chapter reduced to nil subject to fulfilment of the prescribed condition

E) Duty on goods required for manufacture of optical disc drives also reduced to nil subject to fulfilment of the prescribed condition

2. Notification No.55/2010-Cus, dated 29/04/2010: Customs Duty on acetate rayon tow used for manufacture of cigarette filter rod reduced to nil subject to fulfilment of prescribed conditions

3. Notification no. 56/2010, dated 29/04/2010: Customs Duty on iron ore & concentrates increased from 10 percent to 15 percent for easier access of raw materials to domestic steel manufacturers

4. Notification No.53/2010-Cus, dated 19th April, 2010: The Central Government has imposed anti-dumping duty on phenol imported from Thailand & Japan

5. Circular No.10/2010-Cus, dated 26th April, 2010: Vide this circular, all concerned have been informed that CBEC is no longer handling cases relating to fixation of brand rates of Duty Drawback. Henceforth, all references for brand rate fixation should be made to the jurisdictional Central Excise Commissionerate, with the complete set of documents.

Case Laws

SERVICE TAX

1. In the case of Semco Electrical Pvt. Ltd.Vs. Commissioner of Central Excise, the CESTAT has held that CENVAT Credit

availed on services which are used in or in relation to manufacture of final products or used in relation to the business activity of any enterprise whether directly or indirectly, shall be allowed as eligible input credit.

CENTRAL EXCISE

2. In OK Play (India)Ltd. Vs. Commissioner of Central Excise-II, New Delhi, the Supreme Court has held that the activity of pulverisation of HDPE & LDPE granules into moulding powder constitutes manufacture since the moulding powder produced by the afore stated process is a marketable & clearly distinguishable product by virtue of Note 6(b) to Chapter 39 of Central Excise Tariff Act.

3. In the Civil Appeal of Commissioner of Central Excise, Allahabad Vs. Hindustan Safety Glass Works Ltd., the Supreme Court has held that as per the reading of Section 4(4)(d)(1) of the Central Excise Act, 1944, the cost of wooden crates used for packing glass sheets is includible in the assessable value of glass unless the packing is of a very durable nature & is returnable by the buyer to the assessee. In fact, the marketability of glass is enhanced by its packaging.

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CUSTOMS

4. In the Civil Appeal by the Commissioner of Customs, Kolkata Vs. J.K. Corporation Ltd. the Supreme Court has held that the basic principle of levy of Customs duty is that the value of imported goods has to be determined at the time and place of importation. Assessment of Customs duty must have a direct nexus with the value of goods which is payable at the time of importation. If any amount is to be paid after the importation of the goods is complete, inter alia by way of transfer of licence or technical knowhow for the purpose of setting up of a plant from the machinery imported or running thereof, the same would not be computed for the said purpose.

UP TRADE TAX

5. In the Civil Appeal of Jai Vijay Metal Udyog Pvt. Ltd. Vs. Commissioner of Trade Tax, U.P., the Supreme Court has held that the process of redrawing aluminium redraw rods from ingots amounts to manufacture of properzi rods which were classified by the Assessing Authorities to be metal/primary metal, assessed at the rate of 2 percent Trade tax, in addition to a surcharge of 10 percent, in terms of Entry no.24 of the Schedule to the U.P. Trade Tax Act.

For clarifications/queries, you may contact :

G.P. BANERJI

Partner - Indirect Taxes
Kochhar & Co., New Delhi
Ph.: +91-11-40563813
guruprasad.banerji@kochhar.com

KOCHHAR&CO.
ADVOCATES & LEGAL CONSULTANTS

New Delhi Office

11th Floor, Tower A, DLF Towers Jasola,
Jasola District Center,
New Delhi - 110 025 (INDIA)
Tel: (91-11) 41115222, 40563812
Fax: (91-11) 40563813
E-mail: delhi@kochhar.com

Gurgaon Office

3rd Floor, Tower-B, Technopolis Building
Sector-54 DLF Golf Course Road
Gurgaon-122002
Haryana (INDIA).
Tel.: (91-124) 4545222
Fax: (91-124) 4375596
E-mail: gurgaon@kochhar.com

Mumbai Office

17th Floor, Nirmal Building
Nariman Point, Mumbai-400 021 (INDIA).
Tel.: (91-22) 66370031, 66559701
Fax: (91-22) 66559705
E-mail: legal@mumbai.kochhar.com

Bangalore Office

201, Prestige Sigma 3, Vittal Mallya Road
Bangalore 1- 560 001, Karnataka (INDIA).
Tel.: (91-80) 41124994, 41124995
Fax: (91-80) 41124998
E-mail: legal@bgl.kochhar.com

Hyderabad Office

6-3-597/A/24/2, Plot No. 21, Banjara
Avenue, Off Road No. 1 Banjara Hills,
Hyderabad- 500 004,
Andhra Pradesh (INDIA).
Tel.:(91-40) 40115222, 40205223
Fax: (91-40) 40205224
Email: hyderabad@kochhar.com

Chennai Office

Suite 305, Delta Wing 3rd Floor, Raheja
Towers, #177, Anna Salai,
Chennai – 600 002.
Tamil Nadu (INDIA).
Tel: (91-44) 4040 5222
Fax: (91-44) 28607588
E-mail: chennai@kochhar.com

Atlanta Office

300 Village Green Circle Suit 201 Smyrna
/ Atlanta, GA 30080, USA
Tel.: (1-770) 4340715
Fax: (1-770)) 4386172
E-mail: atlanta@usa.kochhar.com

Singapore Office

1 Fullerton Road # 02-01 One Fullerton
Singapore 049213 Tel: (+65) 6408 3911
Fax: (+65) 6408 3801
E-mail: singapore@kochhar.sg;

Tokyo Office

Representative Office- 12th Floor, Ark Mori
Building, 1-12-32 Akasaka, Minato-Ku,
Tokyo 107-6012 (Japan)
Tel: + 81-3-4360-9379,
Fax: +81-3-4360-8201,
Email: tokyo@kochhar.jp