DIRECT TAXES
AND
INDIRECT TAXES
UPDATES

APPLICABLE FOR JUNE 2012 EXAMINATION
FOR EXECUTIVE & PROFESSIONAL
PROGRAMME

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DIRECT TAXES

(A) INCOME TAX (INCOME TAX ACT, 1961)

(1) Tax Rates:

(a) In the case of every **individual or Hindu undivided family or association of persons or body of individuals or every artificial juridical person:**

Upto Rs. 1,80,000	*Nil*
Rs.1,80,001 to Rs. 5,00,000	10 % of the amount in excess of Rs.1,80,000
Rs. 5,00,001 to Rs. 8,00,000	Rs. 32,000 *plus* 20 per cent of the amount in excess of Rs.5,00,000
Rs. 8,00,001 and above	Rs. 92,000 *plus* 30 % of the amount in excess of Rs. 8,00,000.

(b) In the case of every individual, **being a woman resident in India**, and **below the age of sixty-five years** at any time during the previous year,

Upto Rs. 1,90,000	*Nil*
Rs.1,90,001 to Rs. 5,00,000	10 % of the amount in excess of Rs.1,90,000
Rs. 5,00,001 to Rs. 8,00,000	Rs. 31,000 *plus* 20 per cent of the amount in excess of Rs.5,00,000
Rs. 8,00,001 and above	Rs. 91,000 *plus* 30 % of the amount in excess of Rs. 8,00,000

(c) In the case of **every individual**, being **a resident in India**, who is of the age of **sixty-five years or more** at any time during the previous year but not more than 80 years on the last day of the previous year:-

Upto Rs. 2,50,000	*Nil*
Rs.2,50,001 to Rs. 5,00,000	10 % of the amount in excess of Rs.2,50,000
Rs. 5,00,001 to Rs. 8,00,000	Rs.25,000 *plus* 20 per cent of the amount in excess of Rs.5,00,000
Rs. 8,00,001 and above	Rs.85,000 *plus* 30 % of the amount in excess of Rs.8,00,000.

(d) In the case of **every individual**, being **a resident in India**, who is of the age of **80 years or more** at any time during the previous year:-

Upto Rs. 5,00,000	*Nil*
Rs. 5,00,001 to Rs. 8,00,000	20 % of the amount in excess of Rs.5,00,000
Rs. 8,00,001 and above	Rs.60,000 *plus* 30 % of the amount in excess of Rs.8,00,000.

(e) In the case of every **co-operative society**:

(1) where the total income does not exceed Rs. 10,000.	10 % of the total income;
(2) where the total income exceeds Rs.10,000 but does not exceed Rs. 20,000.	Rs. 1,000 *plus* 20% of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 20,000	Rs. 3,000 *plus* 30% of the amount by which the total income exceeds Rs. 20,000.

(e) **In the case of every firm**: On the whole of the total income @30%

(f) **In the case of every local authority:** On the whole of the total income @30%

(g) **In the case of a company:**

(i) In the case of a **domestic company** @30% of the total income.

(ii) In the case of a company **other than a domestic company:**

(*i*) on so much of the total income as consists of,: (*a*) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or (*b*) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976, and where such agreement has, in either case, been approved 50 %; by the Central Government	50%
(ii) on the balance, if any, of the total income	40 %

Surcharge on income-tax
(*i*) in the case of every **domestic company** having a total income exceeding one crore rupees @5% of such income-tax;

(*ii*) in the case of every company other than a **domestic company** having a total income exceeding one crore rupees @ 2%

2. Definition of Charitable Purpose [Section 2(15)]

"Charitable Purpose" has been defined in section 2(15) which, among others, include "the advancement of any other object of general public utility". However, "the advancement of any other object of general public utility" is not a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity and receipts from such activities is **ten lakh rupees or more** in the previous year.

Section 2(15) has been amended to enhance the current monetary limit in respect of receipts from such activities from **ten lakhs rupees to twenty-five lakhs rupees.**

3. Exemptions under section 10: Section 10 of the Income-tax Act excludes certain incomes from the ambit of total income. With the following amendments the scope of section 10 has further been extended.

(a) Perquisites/Allowances to Chairman/ Members of UPSC [Section 10(45)]

The existing provisions of the Income-tax Act provide for the taxation of any perquisites or allowances received by an employee under the head "Salaries" unless it is specifically exempt under the Act. Currently, specified perquisites of the Chief Election Commissioner or Election Commissioner and the judges of the Supreme Court are exempt from taxation consequent to the enabling provisions in the respective Acts governing their service conditions. Section 10 has been amended to extend similar benefit of exemption in respect of specific perquisites and allowances, which will be notified by the Central Government, received by both serving as well as retired Chairmen and Members of the Union Public Service Commission.

This amendment shall take effect retrospectively from 1st April, 2008 and will accordingly apply in relation to the assessment year 2008-09 and subsequent years."

(b) Specified income of notified body or authority or trust or board or commission [Section 10(46)]

A new clause has been inserted in section 10 of the Income-tax Act to provide exemption from income-tax to any specified income of a body, authority, board, trust or commission which is set up or constituted by a Central, State or Provincial Act or constituted by the Central Government

or a State Government with the object of regulating or administering an activity for the benefit of the general public, provided-

(i) it is not engaged in any commercial activity, and
(ii) is notified by the Central Government in this behalf.

The nature and extent of income to be exempted will also be specified by the Central Government while notifying such entity.

A consequential amendment is made in section 139 of the Act to provide for filing of the return of income by such notified entity. These amendments are effective from 1st June 2011.

(c) Infrastructure Debt Fund

In order to augment long-term, low cost funds from abroad for the infrastructure sector, it is proposed to facilitate setting up of dedicated debt funds.

Section 10 of the Income-tax Act has been amended so as to provide enabling power to the Central Government to notify any infrastructure debt fund which is set up in accordance with the prescribed guidelines. Once notified, the income of such debt fund would be exempt from tax.

It will, however, be required to file a return of income. It is also proposed to amend section 115A of the Income-tax Act to provide that any interest received by a non-resident from such notified infrastructure debt fund shall be taxable at the rate of five per cent on the gross amount of such interest income.

It is further proposed to insert a new section 194LB to provide that tax shall be deducted at the rate of five per cent by such notified infrastructure debt fund on any interest paid by it to a non-resident.

These amendments are proposed to take effect from 1st June 2011.

4. Weighted deductions under section 35:

(a) Weighted deduction for contribution made for approved scientific research programme

Under the existing provisions of section 35(2AA) of the Income-tax Act, weighted deduction to the extent of 175 per cent is allowed for any sum paid to a National Laboratory or a university or an Indian Institute of Technology (IIT) or a specified person for the purpose of an approved scientific research programme.

In order to encourage more contributions to such approved scientific research programmes, the weighted deduction is increased from 175 per cent to 200 per cent

(b) Investment linked deduction in respect of specified businesses

Under the existing provisions of section 35AD of the Income-tax Act, investment-linked tax incentive is provided by way of allowing hundred per cent deduction in respect of any expenditure of capital nature (other than on land, goodwill and financial instrument) incurred wholly and exclusively, for the purposes of the "specified business". Two new businesses are included in "specified business", under section 35AD(8)(c):

(a) developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed; and

(b) production of fertiliser in India.

Under section 73A, any loss of a "specified business" (under section 35AD) is allowed set-off against profit and gains of any other "specified business". In order to remove any ambiguity in this regard in respect of the business of hotels and hospitals, the word "new" is removed from the definition of "specified business" in the case of hotels and hospitals under section 35AD(8)(c). With this, the loss of an assessee on account of a "specified business" claiming deduction under section 35AD will be allowed for set off against the profit of another "specified business" under section 73A, whether or not the latter is eligible for deduction under section 35AD. Therefore, an assessee who currently operates a hospital or a hotel would be able to set off the profits of such business against the losses, if any, of a new hospital or new hotel which begins to operate after 1st April, 2010 and which is eligible for deduction of expenditure under section 35AD.

5. Deduction under section36 for Employers contribution towards Pension scheme is allowed:

In section 36 of the Income-tax Act, in sub-section (1), after clause (iv), the following shall be inserted with effect from the 1st day of April, 2012, namely:—

'(iva) any sum paid by the assessee as an employer by way of contribution towards a pension scheme, as referred to in section 80CCD, on account of an employee to the extent it does not exceed ten per cent. of the salary of the employee in the previous year.

Explanation.—For the purposes of this clause, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;

6. Deduction under Chapter VI-A:

(a) Tax benefits for New Pension System (NPS)

Section 80CCD of the Income-tax Act provides, inter alia, a deduction in respect of contributions made by an employee as well as an employer to the New Pension System (NPS) account on behalf of the employee. In view of the provisions of section 80CCE, the aggregate deduction under sections 80C, 80CCC and 80CCD cannot exceed one lakh rupees. The allowable deduction under section 80CCD includes both the employee's as well the employer's contribution to the NPS.

Section 80CCE is amended so as to provide that the contribution made by the Central Government or any other employer to a pension scheme under section 80CCD(2) shall be excluded from the limit of one lakh rupees provided under section 80CCE.

(b) Deduction for investment in long-term infrastructure bonds

Under the existing provisions of section 80CCF of the Income-tax Act, a sum of Rs. 20,000 (over and above the existing limit of Rs. 1 lakh available under section 80CCE for tax savings) is allowed as deduction in computing the total income of an individual or a Hindu undivided family if that sum is paid or deposited during the previous year relevant to the assessment year 2011-12 in long-term infrastructure bonds as notified by the Central Government.

Section 80CCF is amended to allow deduction on account of investment in notified long-term infrastructure bonds for the year 2011-12 (assessment year 2012-13) also.

(c) Extension of sunset clause for tax holiday for power sector

Under the existing provisions of section 80-IA(4)(iv) of the Income-tax Act, a deduction of profits and gains is allowed to an undertaking which,—

(a) is set up for the generation and distribution of power if it begins to generate power at any time during the period beginning on 1st April, 1993 and ending on 31st March, 2011;

(b) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on 1st April, 1999 and ending on 31st March, 2011;

(c) undertakes substantial renovation and modernisation of existing network of transmission or distribution lines at any time during the period beginning on 1st April, 2004 and ending on 31st March, 2011.

Section 80-IA(4)(iv) is amended to extend the terminal date for a further period of one year, i.e., upto 31st March, 2012.

(d) Sunset of tax holiday for certain undertakings engaged in commercial production of mineral oil

Under the existing provisions of section 80-IB(9) of the Income-Tax Act, a seven-year profit-linked deduction of hundred per cent is available to an undertaking, if it fulfils any of the following, namely:-

(i) is located in North-Eastern Region and has begun or begins commercial production of mineral oil before 1st April, 1997;

(ii) is located in any part of India and has begun or begins commercial production of mineral oil on or after 1st April, 1997;

(iii) is engaged in refining of mineral oil and begins such refining on or after 1st October, 1998 but not later than 31st March, 2012;

(iv) is engaged in commercial production of natural gas in blocks licensed under the VIII Round of bidding for award of exploration contracts (NELP-VIII) under the New Exploration Licencing Policy announced by the Government of India
vide Resolution No. O-19018/22/95-ONG.DO.VL, dated 10th February, 1999 and begins commercial production of natural gas on or after 1st April, 2009;
(v) is engaged in commercial production of natural gas in blocks licensed under the IV Round of bidding for award of exploration contracts for Coal Bed Methane blocks and begins commercial production of natural gas on or after
1st April, 2009.

For the purposes of claiming this deduction, all blocks licensed under a single contract, which has been awarded under the New Exploration Licencing Policy announced by the Government of India vide Resolution No. O-19018/22/95-ONG.DO.VL, dated 10th February, 1999 or in pursuance of any law for the time being in force or by the Central or a State Government in any other manner, is treated as a single "undertaking".

Thus, an undertaking, which is located in any part of India and is engaged in commercial production of mineral oil, is eligible for the above-mentioned deduction, if it has begun or begins commercial production of mineral oil at any time after 1st April, 1997.

No sunset date has been provided for such business. It is amended that the aforesaid deduction available for commercial production of mineral oil will not be available for blocks licensed under a contract awarded after 31st March, 2011 under the New Exploration Licencing Policy announced by the Government of India vide Resolution No. O-19018/22/95-ONG.DO.VL, dated 10th February, 1999 or in pursuance of any law for the time being in force or by the Central or a State Government in any other manner.
This amendment will take effect from 1st April, 2012 and will, accordingly, apply in relation to the assessment year 2012-13 and subsequent years.

7. Rationalisation of provisions relating to Transfer Pricing

(a) **Computation of Arm's Length Price:**

Section 92C of the Income-tax Act provides the procedure for computation of the Arm's Length Price (ALP). The section provides the methods of computing the ALP and mandates that the most appropriate method should be chosen to compute ALP. It is also provided that if more than one price is determined by the chosen method, the ALP shall be taken to be the arithmetical mean of such prices. The second proviso to section 92C(2) provides that if the variation between the actual price of the transaction and the ALP, as determined above, does not exceed 5% of the actual price, then, no adjustment will be made and the actual price shall be treated as the ALP.

A fixed margin of 5% across all segments of business activity and range of international transactions has out-lived its utility. Section 92C of the Act is amended to provide that instead of a variation of 5%, the allowable variation will be such percentage as may be notified by Central Government in this behalf.

(b) Section 92CA of the Act provides that the Transfer Pricing Officer (TPO) can determine the ALP in relation to an international transaction, which has been referred to the TPO by the Assessing Officer.

Section 92CA is amended so as to specifically provide that the jurisdiction of the Transfer Pricing Officer shall extend to the determination of the ALP in respect of other international transactions, which are noticed by him subsequently, in the course of proceedings before him. These international transactions would be in addition to the international transactions referred to the TPO by the Assessing Officer.

(c) Section 92CA(7) provides that for the purpose of determining the ALP, the TPO can exercise powers available to an assessing officer under section 131(1) and section 133(6). These are powers of summoning or calling for details for the purpose of inquiry or investigation into the matter.

In order to enable the TPO to conduct on-the-spot enquiry and verification, Section 92CA(7) is amended so as to enable the TPO to also exercise the power of survey conferred upon an income-tax authority under section 133A of the Act. These amendments are effective from 1st June 2011.

(d) Section 139 of the Income-tax Act stipulates 30th September of the assessment year as the due date for filing of return of income in case of corporate assessees. In addition to filing a return of income, assessees who have undertaken international transactions are also required (under the provisions of section 92E) to prepare and file a transfer pricing report in Form 3CEB before the due date for filing of return of income.

Corporate assessees face practical difficulties in accessing contemporary comparable data before 30th September in order to furnish a report in respect of their international transactions. Therefore section 139 is amended to extend the due date for filing of return of income by such corporate assessees to 30th November of the assessment year.

8. Taxation of certain foreign dividends at a reduced rate

Under the existing provisions of the Income-tax Act, dividend received from foreign companies is taxable in the hands of the resident shareholder at his applicable marginal rate of tax. Therefore, in case of Indian companies which receive foreign dividend, such dividend is taxable at the rate of thirty per cent plus applicable surcharge and cess.

A new section 115BBD is inserted to provide that where total income of an Indian company for the previous year relevant to the assessment year 2012-13 includes any income by way of dividends received from a foreign subsidiary company, then such dividends shall be taxable at the rate of fifteen per cent (plus applicable surcharge and cess) on the gross amount of dividends. No expenditure in respect of such dividends shall be allowed under the Act.

9. Minimum Alternate Tax

Under the existing provisions of section 115JB(1), a company is required to pay a minimum alternate tax (MAT) on its book profit, if the income-tax payable on the total income, as computed under the Act in respect of any previous year relevant to the assessment year commencing on or after 1st April, 2011, is less than the MAT. The amount of tax paid under the said section is allowed to be carried forward and set off against tax payable up to the tenth assessment year immediately succeeding the assessment year in which the tax credit becomes allowable under the provisions of section 115JAA.

The rate of MAT is increased from 18% to 18.5% of such book profit.

10. Alternate Minimum Tax for Limited Liability Partnership (LLP)

The Limited Liability Partnership Act, 2008 (LLP) has come into effect in 2009. The LLP has features of both a body corporate as well as a traditional partnership. The Income-tax Act provides for the same taxation regime for a limited liability partnership as is applicable to a partnership firm. It also provides tax neutrality (subject to fulfilment of certain conditions) to conversion of a private limited company or an unlisted public company into an LLP.

An LLP being treated as a firm for taxation has the following tax advantages over a company under the Income-tax Act:-

i) it is not subject to Minimum Alternate Tax;
ii) it is not subject to Dividend Distribution Tax (DDT); and
iii) it is not subject to surcharge.

In order to preserve the tax base vis-à-vis profit-linked deductions, it is proposed to insert a new Chapter XII-BA in the Income-tax Act containing special provisions relating to certain limited liability partnerships.

Where the regular income-tax payable for a previous year by a limited liability partnership is less than the alternate minimum tax payable for such previous year, the adjusted total income shall be deemed to be the total income of such limited liability partnership and it shall be liable to pay income-tax on such total income @18.5%. For the purpose of the above,

(i) “adjusted total income” shall be the total income before giving effect to this newly inserted Chapter XII-BA as increased by the deductions claimed under any section included in Chapter VI-A under the heading “C – Deductions in respect of certain incomes” and deduction claimed under section 10AA;
(ii) “alternate minimum tax” shall be the amount of tax computed on adjusted total income at a rate of eighteen and one-half per cent; and
(iii) “regular income-tax” shall be the income-tax payable for a previous year by a limited liability partnership on its total income in accordance with the provisions of the Act other than the provisions of this newly inserted Chapter XII-BA.

The credit for tax (tax credit) paid by a limited liability partnership under this newly inserted Chapter XII-BA shall be allowed to the extent of the excess of the alternate minimum tax paid over the regular income-tax. This tax credit shall be allowed to be carried forward up to the tenth

assessment year immediately succeeding the assessment year for which such credit becomes allowable. It shall be allowed to be set off for an assessment year in which the regular income-tax exceeds the alternate minimum tax to the extent of the excess of the regular income-tax over the alternate minimum tax.

11. Rationalisation of Tax on Income distributed to unit holders

Under the existing provisions contained in section 115R(2) of the Income-tax Act, a Mutual Fund is liable to pay additional income-tax on the amount of income distributed to its unit holders.

It is proposed to levy additional income-tax at a higher rate of 30 per cent. on income distributed by debt funds to a person other than an individual or HUF.
It is therefore proposed to amend section 115R(2) to provide that the Mutual Fund shall be liable to pay additional income-tax on such distributed income at the rate of –

(a) 25 per cent. if the recipient is an individual or HUF in case of distribution by a money market mutual fund or a liquid fund;
(b) 30 per cent. if the recipient is any other person in case of distribution by a money market mutual fund or a liquid fund;
(c) 12.5 per cent. if the recipient is an individual or HUF in case of distribution by a debt fund other than a money market mutual fund or a liquid fund; and
(d) 30 per cent. if the recipient is any other person in case of distribution by debt fund other than a money market mutual fund or a liquid fund.

There will be no change in the rate of income-tax in case of distribution to any individual or HUF. Distribution of income by an equity-oriented fund shall continue to be exempt from tax.

This amendment is proposed to take effect from 1st June, 2011.

12. Collection of information on requests received from tax authorities outside India:

Under the existing provisions of section 131(1) of the Income-tax Act, certain income-tax authorities have been conferred the same powers as are available to a Civil Court while trying a suit in respect of discovery and inspection, enforcing the attendance of any person, including any officer of a banking company and examining him on oath, compelling production of books of account and other documents and issuing commissions.

A new sub-section (2) has been inserted under section 131 to facilitate prompt collection of information on requests received from tax authorities outside India in relation to an agreement for exchange of information under section 90 or section 90A of the Income-tax Act. The new sub-section provides that for the purpose of making an enquiry or investigation in respect of any person or class of persons in relation to an agreement referred to in section 90 or section 90A, it shall be competent for any income-tax authority, not below the rank of Assistant Commissioner of Income-tax, as notified by the Board in this behalf, to exercise the powers currently conferred on income-tax authorities referred to in section 131(1). The authority so notified by the Board shall be able to exercise the powers under section 131(1) notwithstanding that no proceedings with respect to such person or class of persons are pending before it or any other income-tax authority.

Section 131(3) has further been amended so as to empower the aforesaid authority, as notified by the Board, to impound and retain any books of account and other documents produced before it in any proceeding under the Act.
Similar amendments have also been made in section 133 of the Income-tax Act.

These amendments will take effect from 1st June, 2011.

13. Exemption to a class or classes of persons from furnishing a return of income:

Under the existing provisions contained in section 139(1) of the Income-tax Act, every person, if his total income during the previous year exceeds the maximum amount which is not chargeable to income-tax, is required to furnish a return of his income.

In the case of salaried tax payer, entire tax liability is discharged by the employer through deduction of tax at source. Complete details of such tax payers are also reported by the employer through Tax Deduction at Source (TDS) statements. Therefore, in cases where there is no other source of income, filing of a return is a duplication of existing information.

In order to reduce the compliance burden on small tax payer, a sub-section (1C) has been inserted in section 139. This provision empowers the Central Government to exempt, by notification in the Official Gazette, any class or classes of persons from the requirement of furnishing a return of income, having regard to such conditions as may be specified in that notification.

Consequential amendments has also been made to the provisions of section 296 to provide that any notification issued under section 139(1C) shall be laid before Parliament. These amendments will take effect from 1st June, 2011.

14. Notification for processing of returns in Centralised Processing Centres

Under the existing provisions of section 143(1B) of the Income-tax Act, the Central Government may, for the purpose of giving effect to the scheme made under section 143(1A), by notification in the Official Gazette, direct that any of the provisions of the Income-tax Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification. However, no direction shall be issued after 31st March, 2011.

Section 143(1B) has been amended to extend the existing time limit for issue of notification to 31st March, 2012. This amendment will take effect retrospectively from 1st April, 2011.

15. Extension of time limit for assessments in case of exchange of information

Section 153 of the Income-tax Act provides for the time limits for completion of assessments and reassessments. In Explanation 1 to section 153 of the Income-tax Act, certain periods specified therein are to be excluded while computing the period of limitation for completion of assessments and reassessments.

A new clause (viii) in Explanation 1 to section 153 has been inserted to exclude the time taken in obtaining information from the tax authorities in jurisdictions situated outside India, under an agreement referred to in section 90 or section 90A, from the statutory time limit prescribed for completion of assessment or reassessment.

This clause provides that the period commencing from the date on which a reference for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information so requested is received by the Commissioner, or a period of six months, whichever is less, shall be excluded.

Similar amendments are proposed to be made to section 153B of the Income-tax Act. These amendments will take effect from 1st June, 2011.

16. Modification in the conditions for filing an application before the Settlement Commission

The existing provisions contained in the proviso to section 245C(1) allow an application to be made before the Settlement Commission if,—

(i) the proceedings have been initiated against the applicant under section 153A or under section 153C as a result of search or a requisition of books of account, as the case may be, and the additional amount of income-tax payable on the income disclosed in the application exceeds fifty lakh rupees;

(ii) in other cases, if the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees.

A new clause (ia) has been inserted in the proviso to section 245C(1) to expand the criteria for filing an application for settlement by a tax payer in whose case proceedings have been initiated as a result of search or requisition of books of account.

This clause stipulates that an application can also be made, where the applicant—
(a) is related to the person [referred to in (i) above] in whose case proceedings have been initiated as a result of search and who has filed an application; and
(b) is a person in whose case proceedings have also been initiated as a result of search, the additional amount of income-tax payable on the income disclosed in his application exceeds ten lakh rupees.

As a consequence, a tax payer who is the subject matter of a search would be allowed to file an application for settlement if additional income-tax payable on the income disclosed in the application exceeds fifty lakh rupees. Entities related to such a tax payer, who are also the subject matter of search, would now be allowed to file an application for settlement, if additional income tax payable in their application exceeds ten lakh rupees. This amendment will take effect from 1st June, 2011.

17. Power of the Settlement Commission to rectify its orders

The existing provisions of section 245D(4) of the Income-tax Act provide that the Settlement Commission may pass an order, as it thinks fit, on the matters covered by the applications received by it, after giving an opportunity of being heard to the applicant and to the Commissioner. Further,

under section 245F(1), the Settlement Commission has been conferred all the powers which are vested in an income-tax authority under the Act. An income-tax authority has the power (under section 154) to amend any order passed by it for the purpose of rectifying any mistake apparent from the record.

A new sub-section (6B) in section 245D has been inserted so as to specifically provide that the Settlement Commission may, at any time within a period of six months from the date of its order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under section 245D(4).

It is further provided that a rectification which has the effect of modifying the liability of the applicant shall not be made unless the Settlement Commission has given notice to the applicant and the Commissioner of its intention to do so and has allowed the applicant and the Commissioner an opportunity of being heard.

18. Omission of the requirement of quoting of Document Identification Number

Under the existing provisions contained in section 282B of the Income-tax Act, every income-tax authority shall, on or after the 1st day of July, 2011, allot a computer-generated Document Identification Number in respect of every notice, order, letter or any correspondence issued by him to any other income-tax authority or assessee or any other person and such number shall be quoted thereon.

Considering the practical difficulties due to non-availability of requisite infrastructure on an all India basis the aforesaid section has been omitted. This amendment will take effect retrospectively from 1st April, 2011.

18. Reporting of activities of liaison offices

Foreign companies or firms or associations of individuals operate in India through a branch or a liaison office after approval by Reserve Bank of India. The branch constitutes a permanent establishment of the foreign entity and is, therefore, required to file a return of income along with requisite details. A non-resident does not file a return of income with regard to its liaison office on the ground that no business activity is allowed to be carried out in India.

A new section 285 is, therefore, inserted in the Income-tax Act mandating the filing of annual information, within sixty days from the end of the financial year, in the prescribed form and providing prescribed details by non-residents as regards their liaison offices. This amendment will take effect from 1st June, 2011.

19. Recognition to Provident Funds – Extension of time limit for obtaining exemption from Employees Provident Fund Organisation (EPFO)

Rule 4 in Part A of the Fourth Schedule to the Income-tax Act provides for conditions which are required to be satisfied by a Provident Fund for receiving or retaining recognition under the Income-tax Act. One of the requirements of rule 4 [clause (ea)] is that the establishment shall obtain

exemption under section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF & MP Act).

Rule 3 in Part A of the Fourth Schedule provides that the Chief Commissioner or the Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions specified under the said rule 4 and the conditions which the Board may specify by rules.

The first proviso to sub-rule (1) of rule 3, inter alia, specifies that in a case where recognition has been accorded to any provident fund on or before 31st March, 2006, and such provident fund does not satisfy the conditions set out in clause (ea) of rule 4 on or before 31st December, 2010 and any other conditions which the Board may specify by rules in this behalf, the recognition to such fund shall be withdrawn. In order to provide further time to the Employees' Provident Fund Organization (EPFO) to process the applications made by establishments seeking exemption under section 17 of the EPF & MP Act, it is proposed to amend the aforesaid proviso so as to extend the time limit from 31st December, 2010 to 31st March, 2012. This amendment will take effect retrospectively from 1st January, 2011.

INDIRECT TAXES
(A) SERVICE TAX

1. Basis of Payment:

With effect from 01st April 2011, Point of Taxation Rule, 2011 are introduced to provide for the payment of service tax on accrual basis instead of receipt basis.

POINT OF TAXATION (POT) RULES, 2011

Rule 6(1) of Service Tax Rules 1994, states that service tax shall be paid to the credit of Government by the 5th/6th of the month/quarter immediately following the month/quarter in which service is deemed to be provided.

Rule 5B of Service Tax Rules 1994, provides that rate of tax in case of services provided or to be provided shall be the rate prevailing at the time of **services deemed to have been provided**.

Services deemed to have been provided i.e. Point of Taxation as prescribed in POT rules, 2011 will determine rate of service tax and due date of payment of service tax.

As per rule 2(e) of POT Rules, 2011, "Point of taxation" means the point in time when a service shall be deemed to have been provided.

(i) Point of Taxation (Rule 3):

Point of taxation shall be determined as per Rule 3 unless otherwise provided in rule 4 to 9 of POT Rules, 2011:

As per Rule 3, point of taxation shall be

(a) the time when the invoice for service provided or to be provided is issued or
(b) in case where payment (includes advance) is received before the issue of invoice then the time when such payment is received or

Rule 4A of the Service Tax Rules 1994, provides that every person providing taxable service shall issue invoice within 14 days of completion of service or receipt of payment of service whichever is earlier.

Further proviso to Rule 3 of POT Rules provides that where the invoice is not issued within 14 days of completion of service than the point of taxation shall the date of completion of such service.

Examples:

S. No.	*Date of Completion of service*	*Date of Invoice*	*Date on which payment is received*	*Point of taxation*	*Remarks*

1	April 10, 2011	April 20, 2011	April 30, 2011	April 20, 2011	Invoice is issued within 14 days and before payment
2	April 10, 2011	April 26, 2011	April 30, 2011	April 10, 2011	Invoice not issued within 14 days and payment received after completion of service
3	April 10, 2011	April 20, 2011	April 15, 2011	April 15, 2011	Invoice is issued within 14 days and payment received before issue of invoice
4	April 10, 2011	April 26, 2011	April 5, 2011 (Part) and April 25, 2011 (remaining)	April 5, 2011 and April 10, 2011 for remaining	Invoice not issued within 14 days. Part payment before completion and remaining later.

(ii). Continuous supply of service

"Continuous supply of service" means any service provided or to be provided continuously for a period exceeding three months. Further, Central Government may notify particular services to be considered as 'Continuous Supply of Services.

The following services have been notified as continuous supply of service irrespective of period for which they are provided or to be provided vide Notification No. 28/2011.

(a) Telecommunication service
(b) Commercial or industrial construction
(c) Construction of residential complex
(d) Internet Telecommunication service
(e) Works contract services

Point of taxation shall be

(a) the time when the invoice for service provided or to be provided is issued or
(b) in case where payment (includes advance) is received before the issue of invoice then the time when such payment is received or

Rule 4A of the Service Tax Rules 1994, provides that every person providing taxable service shall issue invoice within 14 days of completion of service or receipt of payment of service whichever is earlier.

Further, where the invoice is not issued within 14 days of completion of service than the point of taxation shall the date of completion of such service.

In case of continuous supply of service, the point of taxation shall be the date of completion of the events as specified in the contract or time when invoice for the service provided or to be provided is issued or the date on which payment is received, whichever is earlier. Where any advance is received by the service provider the point of taxation shall be date of receipt of each such advance.

(iii). Point of Taxation in case of specified services or persons:
The Point of Taxation in respect of;
(a) the services covered by sub-rule (1) of rule 3 of Export of Services Rules, 2005
(b) the persons required to pay tax as recipients of services (Reverse Charge)
(c) Practicing Chartered Accountants, Practicing Cost Accountant, Practicing Company Secretaries, Advocates, Architects, Interior Decorators, Scientist and Technocrats shall be the date on which payment is received or made.

In case of associated enterprises, where the person providing the service is located outside India, the Point of Taxation shall be the date of credit in the books of account of the person receiving the service or date of making the payment, whichever is earlier.

However in case of Export of services payment is not received within the period specified by RBI then point of taxation shall be determined as per Rule 3,4,5,6 or 8 as applicable.

Where payment not made within six months of date of invoice of service provided in case where the service tax is paid by the recipient the point of taxation shall be determined as per Rule 3,4,5,6 or 8 as applicable.

(iv). Applicability and Transitional Provisions [Rule 9]
These rules shall not apply (a) where the provision of service is completed or (b) where invoices are issued prior to 1.4.2011.

Where the provision of services completed on or before 30-06-2011 or invoice issued before 30-06-2011 then the point of taxation shall be issue of invoice or date of receipt of payment at the option of tax payer.

2. Interest and Late Fees:

(i) **Late Filing of return:** the maximum late fees for late filing of return has been increased from Rs.2,000 to Rs.20,000 [Section 70(1)].

(ii) **Interest on amount collected in excess has been reduced for specified service provider:**

In the case of a service provider, whose value of taxable services provided in a financial year does not exceed sixty lakh rupees during any of the financial years covered by the notice issued under sub-section (*3*) of section 73A or during the last preceding financial year, as the case may be, applicable rate of interest shall be reduced by three per cent per annum (Second proviso to section 73B).

(iii) **Interest on delayed payment of service tax has been reduced for specified service provider:**

In the case of a service provider, whose value of taxable services provided in a financial year does not exceed sixty lakh rupees during any of the financial years covered by the notice or during the last preceding financial year, as the case may be, the applicable rate of interest, shall

be reduced by three per cent per annum **(Proviso to Section 75).**

3. Penalties

(i) Penalty for failure to pay service tax (Section 76):

The penalty for failure to pay service tax has been reduced as follows:

(i) from Rs. 200 to Rs. 100 per day or

(ii) from 2% to 1% p.m of such tax

Further, the maximum penalty has been reduced from 100% to 50%.

Illustration

X, an assessee, fails to pay service tax of ten lakh rupees payable by the 5th March. X pays the amount on the 15th March. The default has continued for ten days.

The penalty payable by X is computed as follows:

(i) 1% of the amount of default for 10 days

(1/100) x 10, 00,000 x (10/31) = Rs.3,225.80

(ii) Penalty calculated @ Rs.100 per day for 10 days = Rs.1,000

Penalty liable to be paid is Rs. 3226.00.

(ii) Penalty for contravention of Rules and Provisions of Act for which no penalty is specified elsewhere (section 77):

The penalty has been increased from Rs. 5,000 to Rs.10,000.

(iii) Penalty for suppressing, etc., of value of taxable services Section 78:

For section 78, the following section shall be substituted

Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by reason of—

(*a*) fraud; or

(*b*) collusion; or

(*c*) wilful mis-statement; or

(*d*) suppression of facts; or

(*e*) contravention of any of the provisions of this Chapter or of the rules made thereunder with the intent to evade payment of service tax,

the person, liable to pay such service tax or erroneous refund, as determined under sub-section (*2*) of section 73, shall also be liable to pay a penalty, in addition to such service tax and interest thereon, if any, payable by him, which shall be equal to the amount of service tax so not levied or paid or short-levied or short-paid or erroneously refunded:

Provided that where true and complete details of the transactions are available in the specified records, penalty shall be reduced to fifty per cent. of the service tax so not levied or paid or short- levied or short-paid or erroneously refunded:

Provided further that where such service tax and the interest payable thereon is paid within thirty days from the date of communication of order of the Central Excise Officer determining such service tax, the amount of penalty liable to be paid by such person under the first proviso shall be twenty-five per cent. of such service tax:

Provided also that the benefit of reduced penalty under the second proviso shall be available only if the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

Provided also that in case of a service provider whose value of taxable services does not exceed sixty lakh rupees during any of the years covered by the notice or during the last preceding financial year, the period of thirty days shall be extended to ninety days.

(*2*) Where the service tax determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, for the purposes of this section, the service tax as reduced or increased, as the case may be, shall be taken into account:

Provided that in case where the service tax to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the second proviso to sub-section (*1*), shall be available, if the amount of service tax so increased, the interest payable thereon and twenty-five per cent. of the consequential increase of penalty have also been paid within thirty days or ninety days, as the case may be, of communication of the order by which such increase in service tax takes effect:

Provided further that if the penalty is payable under this section, the provisions of section 76 shall not apply.

Explanation.—For the removal of doubts, it is hereby declared that any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the second proviso to sub-section (*1*) or the first proviso to sub-section (*2*) shall be adjusted against the total amount due from such person.";

4. Recovery of service tax not levied or paid or short levied or short paid or erroneously refunded (Section 73):

In section 73,

(*i*) Sub - section (*1A*) shall be omitted;

(*ii*) The provisos to sub-section (*2*) shall be omitted;

(*iii*) After sub-section (*4*), the following sub-section shall be inserted, namely:

'(*4A*) Notwithstanding anything contained in sub-sections (*3*) and (*4*), where during the course of any audit, investigation or verification, it is found that any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, but the true and complete details of transactions are available in the specified records, the person chargeable to service tax or to whom erroneous refund has been made, may pay the service tax in full or in part, as he may accept to be the amount of tax chargeable or erroneously refunded along with interest payable thereon under section 75 and penalty equal to one per cent. of such tax, for each

month, for the period during which the default continues, up to a maximum of twenty-five per cent. of the tax amount, before service of notice on him and inform the Central Excise Officer of such payment in writing, who, on receipt of such information, shall not serve any notice under sub-section (*1*) in respect of the amount so paid and proceedings in respect of the said amount of service tax shall be deemed to have been concluded:

Provided that the Central Excise Officer may determine the amount of service tax, if any, due from such person, which in his opinion remains to be paid by such person and shall proceed to recover such amount in the manner specified in sub-section (*1*).

Explanation.—For the purposes of this sub-section and section 78, "specified records" means records including computerised data as are required to be maintained by an assessee in accordance with any law for the time being in force or where there is no such requirement, the invoices recorded by the assessee in the books of account shall be considered as the specified records.'

5. Insertion of New Sections:

After section 87, the following sections shall be inserted;

(a) Section 88: Liability under Act to be first charge-

Notwithstanding anything to the contrary contained in any Central Act or State Act, any amount of duty, penalty, interest, or any other sum payable by an assessee or any other person under this Chapter, shall, save as otherwise provided in section 529A of the Companies Act, 1956 and the Recovery of Debts Due to Banks and the Financial Institutions Act, 1993 and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002, be the first charge on the property of the assessee or the person as the case may be.

(b) Section 89: Offences and penalties

(*1*) Whoever commits any of the following offences, namely,

(*a*) provides any taxable service chargeable to service tax under sub-section (*1*) of section 68 or receives any taxable service chargeable to tax under sub-section (*2*) of said section, without an invoice issued in accordance with the provisions of this Chapter or the rules made thereunder; or

(*b*) avails and utilises credit of taxes or duty without actual receipt of taxable service or excisable goods either fully or partially in violation of the rules made under the provisions of this Chapter; or

(*c*) maintains false books of account or fails to supply any information which he is required to supply under this Chapter or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or

(*d*) collects any amount as service tax but fails to pay the amount so collected to the credit of the Central Government beyond a period of six months from the date on which such payment

becomes due,

shall be punishable,—

(*i*) in the case of an offence where the amount exceeds fifty lakh rupees, with imprisonment for a term which may extend to three years:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for a term of less than six months;

(*ii*) in any other case, with imprisonment for a term, which may extend to one year.

(*2*) If any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to three years:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the court, such imprisonment shall not be for a term less than six months.

(*3*) For the purposes of sub-sections (*1*) and (*2*), the following shall not be considered as special and adequate reasons for awarding a sentence of imprisonment for a term of less than six months, namely:—

(*i*) the fact that the accused has been convicted for the first time for an offence under this Chapter;

(*ii*) the fact that in any proceeding under this Act, other than prosecution, the accused has been ordered to pay a penalty or any other action has been taken against him for the same act which constitutes the offence;

(*iii*) the fact that the accused was not the principal offender and was acting merely as a secondary party in the commission of offence;

(*iv*) the age of the accused.

(*4*) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Chief Commissioner of Central Excise.

(c) Section 96J: Special exemption from service tax in certain cases:

(*1*) Notwithstanding anything contained in section 66, no service tax shall be levied or collected in respect of membership fee collected by a club or association formed for representing industry or commerce, during the period on and from the 16th day of June, 2005 to the 31st day of March, 2008 (both days inclusive).

(*2*) Refund shall be made of all such service tax which has been collected but which would not

have been so collected if sub-section (*1*) had been in force at all material times.
(*3*) Notwithstanding anything contained in this Chapter, an application for the claim of refund of service tax shall be made within six months from the date on which the Finance Bill, 2011 receives the assent of the President."

7. Mandatory E-filing of half yearly return

Central Government makes the filing of half yearly return electronically compulsory from 1st October, 2011 vide Notification No. 43/2011.

B. CENTRAL EXCISE (CENTRAL EXCISE ACT, 1944)

1. Valuation of Excise goods with respect of Retail Sale Price method (section 4A):

In section 4A, in sub-section (*1*), for the words "Standards of Weights and Measures Act, 1976", the words "Legal Metrology Act, 2009" shall be substituted.

2. Substitution of new section 11A for section 11A – Recovery of duties not levied or not paid or short-levied or short- paid or erroneously refunded.

(*1*) Where any duty of excise has not been levied or paid or has been short-levied or short- paid or erroneously refunded, for any reason, other than the reason of fraud or collusion or any wilful mis statement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty,—

(*a*) the Central Excise Officer shall, within one year from the relevant date, serve notice on the person chargeable with the duty which has not been so levied or paid or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;

(*b*) the person chargeable with duty may, before service of notice under clause (*a*), pay on the basis of,—
(*i*) his own ascertainment of such duty; or
(*ii*) duty ascertained by the Central Excise Officer,
the amount of duty along with interest payable thereon under section 11AA.

(*2*) The person who has paid the duty under clause (*b*) of sub-section (*1*), shall inform the Central Excise Officer of such payment in writing, who, on receipt of such information, shall not serve any notice under clause (*a*) of that sub-section in respect of the duty so paid or any penalty leviable under the provisions of this Act or the rules made thereunder.

(*3*) Where the Central Excise Officer is of the opinion that the amount paid under clause (*b*) of sub-section (*1*) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (*a*) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of one year 10 shall be computed from the date of receipt of information under sub-section (*2*).

(*4*) Where any duty of excise has not been levied or paid or has been short-levied or short-paid or erroneously refunded, by the reason of—
(*a*) fraud; or
(*b*) collusion; or

(*c*) any wilful mis-statement; or
(*d*) suppression of facts; or
(*e*) contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty,

by any person chargeable with the duty, the Central Excise Officer shall, within five years from the relevant date, serve notice on such person requiring him to show cause why he should not pay the amount specified in the notice along with interest payable thereon under section 11AA and a penalty equivalent to the duty specified in the notice.

(*5*) Where, during the course of any audit, investigation or verification, it is found that any duty has not been levied or paid or short-levied or short-paid or erroneously refunded for the reason mentioned in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) or clause (*e*) of sub-section (*4*) but the details relating to the transactions are available in the specified record, then in such cases, the Central Excise Officer shall within a period of five years from the relevant date, serve a notice on the person chargeable with the duty requiring him to show cause why he should not pay the amount specified in the notice along with interest under section 11AA and penalty equivalent to fifty per cent. of such duty.

(*6*) Any person chargeable with duty under sub-section (*5*), may, before service of show cause notice on him, pay the duty in full or in part, as may be accepted by him along with the interest payable thereon under section 11AA and penalty equal to one per cent. of such duty per month to be calculated from the month following the month in which such duty was payable, but not exceeding a maximum of twenty-five per cent. of the duty, and inform the Central Excise Officer of such payment in writing.

(*7*) The Central Excise Officer, on receipt of information under sub-section (*6*) shall

(*i*) not serve any notice in respect of the amount so paid and all proceedings in respect of the said duty shall be deemed to be concluded where it is found by the Central Excise Officer that the amount of duty, interest and penalty as provided under sub-section (*6*) has been fully paid;

(*ii*) proceed for recovery of such amount if found to be short-paid in the manner specified under sub-section (*1*) and the period of one year shall be computed from the date of receipt of such information.

(*8*) In computing the period of one year referred to in clause (*a*) of sub-section (*1*) or five years referred to in sub-section (*4*) or sub-section (*5*), the period during which there was any stay by an order of the court or tribunal in respect of payment of such duty shall be excluded.

(*9*) Where any appellate authority or tribunal or court concludes that the notice issued under sub-section (*4*) is not sustainable for the reason that the charges of fraud or collusion or any wilful mis-statement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty has not been established against the person to whom the notice was issued, the Central Excise Officer shall determine the duty of excise payable by such person for the period of one year, deeming as if the notice were issued under clause (*a*) of sub-section (*1*).

(*10*) The Central Excise Officer shall, after allowing the concerned person an opportunity of being heard, and after considering the representation, if any, made by such person, determine the amount of duty of excise due from such person not being in excess of the amount specified in the notice.

(*11*) The Central Excise Officer shall determine the amount of duty of excise under sub-section (*10*)—

(*a*) within six months from the date of notice in respect of cases falling under sub-section (*1*);
(*b*) within one year from the date of notice in respect of cases falling under sub-section (*4*) or sub-section (*5*).

(*12*) Where the appellate authority modifies the amount of duty of excise determined by the Central Excise Officer under sub-section (*10*), then the amount of penalties and interest under this section shall stand modified accordingly, taking into account the amount of duty of excise so modified.

(*13*) Where the amount as modified by the appellate authority is more than the amount determined under sub-section (*10*) by the Central Excise Officer, the time within which the interest or penalty is payable under this Act shall be counted from the date of the order of the appellate authority in respect of such increased amount.

(*14*) Where an order determining the duty of excise is passed by the Central Excise Officer under this section, the person liable to pay the said duty of excise shall pay the amount so determined along with the interest due on such amount whether or not the amount of interest is specified separately.

Explanation— For the purposes of this section and section 11AC,—

(*a*) "refund" includes rebate of duty of excise on excisable goods exported out of India or on excisable materials used in the manufacture of goods which are exported out of India;

(*b*) "relevant date" means,—

(*i*) in the case of excisable goods on which duty of excise has not been levied or paid or has been short-levied or short-paid, and no periodical return as required by the provisions of this Act has been filed, the last date on which such return is required to be filed under this Act and the rules made thereunder;

(*ii*) in the case of excisable goods on which duty of excise has not been levied or paid or has been short- levied or short-paid and the return has been filed on due date, the date on which such return has been filed;

(*iii*) in any other case, the date on which duty of excise is required to be paid under this Act or the rules made thereunder;

(*iv*) in a case where duty of excise is provisionally assessed under this Act or the rules made thereunder, the date of adjustment of duty after the final assessment thereof;

(*v*) in the case of excisable goods on which duty of excise has been erroneously refunded, the date of such refund;

(*c*) "specified records" means records including computerised records maintained by the person chargeable with the duty in accordance with any law for the time being in force.'.

3. Substitution of new section 11AA for sections 11AA and 11AB – Interest on delayed payment of duty

(*1*) Notwithstanding anything contained in any judgment, decree, order or direction of the Appellate Tribunal or any court or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty, shall, in addition to the duty, be liable to pay interest at the rate specified in sub-section (*2*), whether such payment is made voluntarily or after determination of the amount of duty under section 11A.

(*2*) Interest, at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid in terms of section 11A after the due date by the person liable to pay duty and such interest shall be calculated from the date on which such duty becomes due up to the date of actual payment of the amount due.

(*3*) Notwithstanding anything contained in sub-section (*1*), no interest shall be payable where,—

(*a*) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 37B; and

(*b*) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of

such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.".

4. Substitution of new section 11AC for section 11AC – Penalty for short-levy or non-levy of duty in certain cases:

(*1*) The amount of penalty for non-levy or short-levy or non-payment or short payment or erroneous refund shall be as follows:—

(*a*) where any duty of excise has not been levied or paid or short-levied or short-paid or erroneously refunded, by reason of fraud or collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty, the person who is liable to pay duty as determined under sub- section (*10*) of section 11A shall also be liable to pay a penalty equal to the duty so determined;

(*b*) where details of any transaction available in the specified records, reveal that any duty of excise has not been levied or paid or short-levied or short-paid or erroneously refunded as referred to in sub-section (*5*) of section 11A, the person who is liable to pay duty as determined under sub- section (*10*) of section 11A shall also be liable to pay a penalty equal to fifty per cent. of the duty so determined;

(*c*) where any duty as determined under sub-section (*10*) of section 11A and the interest payable thereon under section 11AA in respect of transactions referred to in clause (*b*) is paid within thirty days of the date of communication of order of the Central Excise Officer who has determined such duty, the amount of penalty liable to be paid by such person shall be twenty-five per cent. of the duty so determined;

(*d*) where the appellate authority modifies the amount of duty of excise determined by the Central Excise Officer under sub-section (*10*) of section 11A, then, the amount of penalties and interest payable shall stand modified accordingly and after taking into account the amount of duty of excise so modified, the person who is liable to pay duty as determined under sub-section (*10*) of section 11A shall also be liable to pay such amount of penalty or interest so modified.

Explanation.—For the removal of doubts, it is hereby declared that in a case where a notice has been served under sub-section (*4*) of section 11A and subsequent to issue of such notice, the Central Excise Officer is of the opinion that the transactions in respect of which notice was issued have been recorded in specified records and the case falls under sub-section (*5*), penalty equal to fifty per cent of the duty shall be leviable.

(*2*) Where the amount as modified by the appellate authority is more than the amount determined under sub-section (*10*) of section 11A by the Central Excise Officer, the time within which the interest or penalty is payable under this Act shall be counted from the date of the order of the appellate authority in respect of such increased amount.".

5. Insertion of new section 11E – Liability under Act to be first charge:

Notwithstanding anything to the contrary contained in any Central Act or State Act, any amount of duty, penalty, interest, or any other sum payable by an assessee or any other person under this Act or the rules made thereunder shall, save as otherwise provided in section 529A of the Companies Act, 1956, the Recovery of Debts Due to Banks and the Financial Institutions Act, 1993 and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002, be the first charge on the property of the assessee or the person, as the case may be.".

6. Insertion of new section 12F – Power of search and seizure

(*1*) Where the Joint Commissioner of Central Excise or Additional Commissioner of Central Excise has reasons to believe that any documents or books or things, which in his opinion shall be useful for or relevant

to any proceedings under this Act, are secreted in any place, he may authorise in writing any Central Excise Officer to search and seize or may himself search and seize such documents or books or things.

(*2*) The provisions of the Code of Criminal Procedure, 1973 relating to search and seizure, shall, so far as may be, apply to search and seizure under this section as they apply to search and seizure under that Code.".

7. Insertion of new section 35R – Appeal not to be filed in certain cases

(*1*) The Central Board of Excise and Customs may, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal, application, revision or reference by the Central Excise Officer under the provisions of this Chapter.

(*2*) Where, in pursuance of the orders or instructions or directions, issued under sub-section (*1*), the Central Excise Officer has not filed an appeal, application, revision or reference against any decision or order passed under the provisions of this Act, it shall not preclude such Central Excise Officer from filing appeal, application, revision or reference in any other case involving the same or similar issues or questions of law.

(*3*) Notwithstanding the fact that no appeal, application, revision or reference has been filed by the Central Excise Officer pursuant to the orders or instructions or directions issued under sub- section (*1*), no person, being a party in appeal, application, revision or reference shall contend that the Central Excise Officer has acquiesced in the decision on the disputed issue by not filing appeal, application, revision or reference.

(*4*) The Appellate Tribunal or court hearing such appeal, application, revision or reference shall have regard to the circumstances under which appeal, application, revision or reference was not filed by the Central Excise Officer in pursuance of the orders or instructions or directions issued under sub-section (*1*).

(*5*) Every order or instruction or direction issued by the Central Board of Excise and Customs on or after the 20th day of October, 2010, but before the date on which the Finance Bill, 2011 receives the assent of the President, fixing monetary limits for filing of appeal, application, revision or reference shall be deemed to have been issued under sub-section (*1*) and the provisions of sub-sections (*2*), (*3*) and (*4*) shall apply accordingly.".

8. Mandatory E-filing of Return:

The Central Government makes it mandatory to file electronically information returns/ declaration relating to principal inputs as referred to in rule 9A of CENVAT Credit Rules, 2004 vide Notification No. 22 / 2011.

C. CENVAT CREDIT RULES, 2004

1. **Definition of Capital Goods:** The definition of Capital Goods has been amended from 01-04-2011 to include goods used outside the factory for generation of electricity for captive use within the factory.
2. **Definition of exempted goods:** With effect from the 1st day of March, 2011, the definition of exempted goods has been amended to include goods for which exemption under Notification No. 1/2011-CE, dated the 1st March, 2011 is availed.
3. **Definition of exempted services:** W.e.f. 01-03-2011, the definition of exempted services has been amended to include taxable services whose part of value is exempted on the condition that no credit of inputs and input services, used for providing such taxable service, shall be taken. Exempted services would also include trading.

4. **Definition of Input:** The definition of input has been substituted,

"Input" means–

(i) all goods used in the factory by the manufacturer of the final product; or

(ii) any goods including accessories, cleared along with the final product, the value of which is included in the value of the final product and goods used for providing free warranty for final products; or

(iii) all goods used for generation of electricity or steam for captive use; or

(iv) all goods used for providing any output service;

but excludes-

(A) light diesel oil, high speed diesel oil or motor spirit, commonly known as petrol;

(B) any goods used for-

(a) construction of a building or a civil structure or a part thereof; or

(b) laying of foundation or making of structures for support of capital goods, except for the provision of any taxable service specified in sub-clauses (zn), (zzl), (zzm), (zzq), (zzzh) and (zzzza) of clause (105) of section 65 of the Finance Act;

(C) capital goods except when used as parts or components in the manufacture of a final product;

(D) motor vehicles;

(E) any goods, such as food items, goods used in a guesthouse, residential colony, club or a recreation facility and clinical establishment, when such goods are used primarily for personal use or consumption of any employee; and

(F) any goods which have no relationship whatsoever with the manufacture of a final product.

Explanation. – For the purpose of this clause, "free warranty" means a warranty provided by the manufacturer, the value of which is included in the price of the final product and is not charged separately from the customer;";

5. **Definition of Input Services:** The definition of "Input Services" has been substituted:

(l) "Input service" means any service, -

(i) used by a provider of taxable service for providing an output service; or

(ii) used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal, and includes services used in relation to modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal; but excludes services,-

(A) specified in sub-clauses (p), (zn), (zzl), (zzm), (zzq), (zzzh) and (zzzza) of clause (105) of section 65 of the Finance Act (hereinafter referred as specified services), in so far as they are used for-

(a) construction of a building or a civil structure or a part thereof; or

(b) laying of foundation or making of structures for support of capital goods, except for the provision of one or more of the specified services; or

(B) specified in sub-clauses (d), (o), (zo) and (zzzzj) of clause (105) of section 65 of the Finance Act, in so far as they relate to a motor vehicle except when used for the provision of taxable services for which the credit on motor vehicle is available as capital goods; or
(C) such as those provided in relation to outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as Leave or Home Travel Concession, when such services are used primarily for personal use or consumption of any employee;";

6. **Definition of "Manufacturer" or "Producer":** The definition of manufacturer or producer has been substituted
   Manufacturer or producer;
   (i) in relation to articles of jewellery falling under heading 7113 of the First Schedule to the Excise Tariff Act, includes a person who is liable to pay duty of excise leviable on such goods under sub rule (1) of rule 12AA of the Central Excise Rules, 2002;
   (ii) in relation to goods falling under Chapters 61, 62 or 63 of the First Schedule to the Excise Tariff Act, includes a person who is liable to pay duty of excise leviable on such goods under sub-rule (1A) of rule 4 of the Central Excise Rules, 2002.

7. **Removal of goods as such – Credit reversal not required for warranty replacement:** Rule 3(5) has been amended from 01-04-2011 whereby Cenvat credit reversal is not required in case of inputs removed as such for the purposes of providing free warranty for final products.
8. **Cenvat credit reversal on input service when payment returned:** A proviso has been added from 01-04-2011 to provide for payment of an amount equivalent to credit availed if payment made towards input service is returned.
9. **Common input services used in taxable and exempted services:** the amount payable in respect of services when common input services are used in taxable and exempted services has been reduced from 6% to 5%. New sub rule (6A) is inserted in Rule 6 from 01-03-2011 to provide for provision of services without payment of service tax to SEZ units or developer without credit reversal.
10. **Cenvat credit on input service – Date of taking credit:** Sub-rule (7) of Rule 4 of the Cenvat Credit Rules, 2004 has been substituted (w.e.f 01-04-2011) to provide for amendments as consequence to coming into force of Point of Taxation Rules, 2011 and also to state that if payment for input service is not made within 3 months of date of invoice etc., Cenvat credit has to be reversed.
11. **Input services – Supplementary invoices eligible:** Rule 9 of the Rules has been amended (w.e.f. 1-4-2011) to provide for availment of Cenvat credit on the basis of supplementary invoices issued by output service provider, in non-fraud cases.

D. CUSTOM DUTY (CUSTOMS ACT, 1962)

1. Amendment of section 2(2) – Definition of Assessment:

"Assessment" includes provisional assessment, self-assessment, re-assessment and any assessment in which

the duty assessed is nil;

2. Substitution of new section 17 for section 17 – Assessment of duty.

(*1*) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

(*2*) The proper officer may verify the self-assessment of such goods and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.

(*3*) For verification of self-assessment under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any contract, broker's note, insurance policy, catalogue or other document, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained, and to furnish any information required for such ascertainment which is in his power to produce or furnish, and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.

(*4*) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

(*5*) Where any re-assessment done under sub-section (*4*) is contrary to the self-assessment done by the importer or exporter regarding valuation of goods, classification, exemption or concessions of duty availed consequent to any notification issued therefor under this Act and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

(*6*) Where re-assessment has not been done or a speaking order has not been passed on re- assessment, the proper officer may audit the assessment of duty of the imported goods or export goods at his office or at the premises of the importer or exporter, as may be expedient, in such manner as may be prescribed.

Explanation.— For the removal of doubts, it is hereby declared that in cases where an importer has entered any imported goods under section 46 or an exporter has entered any export goods under section 50 before the date on which the Finance Bill, 2011 receives the assent of the President, such imported goods or export goods shall continue to be governed by the provisions of section 17 as it stood immediately before the date on which such assent is received.".

3. Amendment of section 18 – Provisional Assessment of duty:

In section 18, for sub-section (*1*), the following sub-section shall be substituted, namely:

(*1*) Notwithstanding anything contained in this Act but without prejudice to the provisions of section 46,—

(*a*) where the importer or exporter is unable to make self-assessment under sub-section (*1*) of section 17 and makes a request in writing to the proper officer for assessment; or

(*b*) where the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test; or

(*c*) where the importer or exporter has produced all the necessary documents and furnished full information but the proper officer deems it necessary to make further enquiry; or

(*d*) where necessary documents have not been produced or information has not been furnished and the proper officer deems it necessary to make further enquiry, the proper officer may direct that the duty leviable on such goods be assessed provisionally if the importer or the exporter, as the case may be, furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty as may be finally assessed and the duty provisionally assessed.

(*b*) in sub-section (*2*), in the opening portion, for the words "in accordance with the provisions of this Act", the words ''by the proper officer'' shall be substituted.

4. Amendment of section 19 – Determination of duty where goods consist of articles liable to different rates of duty:

In section 19 of the Customs Act, in the proviso, in clause (*b*), after the words ''proper officer", the words "or the evidence is available" shall be inserted. .

5. Amendment of section 27 – Claim for refund of duty:

In section 27 of the Customs Act, for sub-section (*1*), the following sub-sections shall be substituted, namely:
(*1*) Any person claiming refund of any duty or interest,—
(*a*) paid by him; or
(*b*) borne by him,
may make an application in such form and manner as may be prescribed for such refund to the Assistant Commissioner of Customs or Deputy Commissioner of Customs, before the expiry of one year, from the date of payment of such duty or interest:

Provided that where an application for refund has been made before the date on which the Finance Bill, 2011 receives the assent of the President, such application shall be deemed to have been made under sub-section (*1*), as it stood before the date on which the Finance Bill, 2011 receives the assent of the President and the same shall be dealt with in accordance with the provisions of sub-section (*2*):

Provided further that the limitation of one year shall not apply where any duty or interest has been paid under protest.

Explanation.— For the purposes of this sub-section, "the date of payment of duty or interest" in relation to a person, other than the importer, shall be construed as "the date of purchase of goods" by such person.

(*1A*) The application under sub-section (*1*) shall be accompanied by such documentary or other evidence (including the documents referred to in section 28C) as the applicant may furnish to establish that the amount of duty or interest, in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such duty or interest, has not been passed on by him to any other person.

(*1B*) Save as otherwise provided in this section, the period of limitation of one year shall be computed in the following manner, namely:—
(*a*) in the case of goods which are exempt from payment of duty by a special order issued under sub-section (*2*) of section 25, the limitation of one year shall be computed from the date of issue of such order;
(*b*) where the duty becomes refundable as a consequence of any judgment, decree, order or direction of the appellate authority, Appellate Tribunal or any court, the limitation of one year shall be

computed from the date of such judgment, decree, order or direction;
(c) where any duty is paid provisionally under section 18, the limitation of one year shall be computed from the date of adjustment of duty after the final assessment thereof.'.

6. Substitution of new section 28 for section 28 – Recovery of duties not levied or short-levied or erroneously refunded:

For section 28 of the Customs Act, the following section shall be substituted, namely:

(*1*) Where any duty has not been levied or has been short-levied or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts,

(*a*) the proper officer shall, within one year from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice;

(*b*) the person chargeable with the duty or interest, may pay before service of notice under clause (*a*) on the basis of,—
(i) his own ascertainment of such duty; or
(*ii*) the duty ascertained by the proper officer, the amount of duty along with the interest payable thereon under section 28AA or the amount of interest which has not been so paid or part-paid.

(*2*) The person who has paid the duty along with interest or amount of interest under clause (*b*) of sub-section (*1*) shall inform the proper officer of such payment in writing, who, on receipt of such information shall not serve any notice under clause (*a*) of that sub-section in respect of the duty or interest so paid or any penalty leviable under the provisions of this Act or the rules made thereunder in respect of such duty or interest.

(*3*) Where the proper officer is of the opinion that the amount paid under clause (*b*) of sub-section (*1*) falls short of the amount actually payable, then, he shall proceed to issue the notice as provided for in clause (*a*) of that sub-section in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of one year shall be computed from the date of receipt of information under sub-section (*2*).

(*4*) Where any duty has not been levied or has been short-levied or erroneously refunded, or interest payable has not been paid, part-paid or erroneously refunded, by reason of,
(*a*) collusion; or
(*b*) any wilful mis-statement; or
(c) suppression of facts,
by the importer or the exporter or the agent or employee of the importer or exporter, the proper officer shall, within five years from the relevant date, serve notice on the person chargeable with duty or interest which has not been so levied or which has been so short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice.

(*5*) Where any duty has not been levied or has been short-levied or the interest has not been charged or has been part-paid or the duty or interest has been erroneously refunded by reason of collusion or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or the employee of the importer or the exporter, to whom a notice has been served under sub- section (*4*) by the proper officer, such person may pay the duty in full or in part, as may be accepted by him, and the interest payable thereon under section 28AA and the penalty equal to twenty-five per cent. of the duty specified in the notice or the duty so accepted

by that person, within thirty days of the receipt of the notice and inform the proper officer of such payment in writing.

(*6*) Where the importer or the exporter or the agent or the employee of the importer or the exporter, as the case may be, has paid duty with interest and penalty under sub-section (*5*), the proper officer shall determine the amount of duty or interest and on determination, if the proper officer is of the opinion—

(*i*) that the duty with interest and penalty has been paid in full, then, the proceedings in respect of such person or other persons to whom the notice is served under sub-section (*1*) or sub-section (*4*), shall, without prejudice to the provisions of sections 135, 135A and 140 be deemed to be conclusive as to the matters stated therein; or

(*ii*) that the duty with interest and penalty that has been paid falls short of the amount actually payable, then the proper officer shall proceed to issue the notice as provided for in clause (*a*) of sub-section (*1*) in respect of such amount which falls short of the amount actually payable in the manner specified under that sub-section and the period of one year shall be computed from the date of receipt of information under sub-section (*5*).

(*7*) In computing the period of one year referred to in clause (*a*) of sub-section (*1*) or five years referred to in sub-section (*4*), the period during which there was any stay by an order of a court or tribunal in respect of payment of such duty or interest shall be excluded.

(*8*) The proper officer shall, after allowing the concerned person an opportunity of being heard and after considering the representation, if any, made by such person, determine the amount of duty or interest due from such person not being in excess of the amount specified in the notice.

(*9*) The proper officer shall determine the amount of duty or interest under sub-section (*8*),

(*a*) within six months from the date of notice in respect of cases falling under clause (*a*) of sub-section (*1*);

(*b*) within one year from the date of notice in respect of cases falling under sub-section (*4*).

(*10*) Where an order determining the duty is passed by the proper officer under this section, the person liable to pay the said duty shall pay the amount so determined along with the interest due on such amount whether or not the amount of interest is specified separately.

Explanation. For the purposes of this section, "relevant date" means,—

(*a*) in a case where duty is not levied, or interest is not charged, the date on which the proper officer makes an order for the clearance of goods;

(*b*) in a case where duty is provisionally assessed under section 18, the date of adjustment of duty after the final assessment thereof;

(*c*) in a case where duty or interest has been erroneously refunded, the date of refund;

(*d*) in any other case, the date of payment of duty or interest.'.

7. Substitution of new section 28AA for sections 28AA and 28AB – Interest on delayed payment of duty

(*1*) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made there under, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (*2*), whether such payment is made voluntarily or after determination of the duty under that section.

(*2*) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay

duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

(*3*) Notwithstanding anything contained in sub-section (*1*), no interest shall be payable where,—
(a) the duty becomes payable consequent to the issue of an order, instruction or direction by the Board under section 151A; and
(b) such amount of duty is voluntarily paid in full, within forty-five days from the date of issue of such order, instruction or direction, without reserving any right to appeal against the said payment at any subsequent stage of such payment.".

8. Amendment of section 46 – Entry of goods on importation

In section 46 of the Customs Act,
(*a*) in sub-section (*1*),
(*i*) after the words "by presenting", the word "electronically" shall be inserted;
(*ii*) for the words "Provided that", the following shall be substituted,

"Provided that the Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically, allow an entry to be presented in any other manner:

(*b*) in sub-section (*4*), the words "at the foot thereof" shall be omitted.

9. Amendment of section 50 – Entry of goods for exportation

In section 50 of the Customs Act,
(*a*) in sub-section (*1*),
(*i*) after the words "thereof by presenting", the word "electronically" shall be inserted;
(*ii*) the following proviso shall be inserted, namely:—
"Provided that the Commissioner of Customs may, in cases where it is not feasible to make entry by presenting electronically, allow an entry to be presented in any other manner.";
(*b*) in sub-section (*2*), the words "at the foot thereof" shall be omitted.

10. Insertion of new section 131BA – Appeal not to be filed in certain cases

(*1*) The Board may, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal, application, revision or reference by the Commissioner of Customs under the provisions of this Chapter.

(*2*) Where, in pursuance of the orders or instructions or directions, issued under sub-section (*1*), the Commissioner of Customs has not filed an appeal, application, revision or reference against any decision or order passed under the provisions of this Act, it shall not preclude such Commissioner of Customs from filing any appeal, application, revision or reference in any other case involving the same or similar issues or questions of law.

(*3*) Notwithstanding the fact that no appeal, application, revision or reference has been filed by the Commissioner of Customs pursuant to the orders or instructions or directions issued under sub- section (*1*), no person, being a party in appeal, application, revision or reference shall contend that the Commissioner of Customs has acquiesced in the decision on the disputed issue by not filing appeal, application, revision or reference.

(*4*) The Appellate Tribunal or court hearing an appeal, application, revision or reference shall have regard to the circumstances under which the appeal, application, revision or reference was not filed by the Commissioner of Customs in pursuance of orders or instructions or directions issued under sub-section (*1*).

(5) Every order or instruction or direction issued by the Board on or after the 20th day of October, 2010, but before the date on which the Finance Bill, 2011 receives the assent of the President, fixing monetary limits for filing appeal, application, revision or reference shall be deemed to have been issued under sub-section (*1*), and the provisions of sub-sections (*2*), (*3*) and (*4*) shall apply accordingly.".

11. Insertion of new section 142A – Liability under Act to be first charge

Notwithstanding anything to the contrary contained in any Central Act or State Act, any amount of duty, penalty, interest or any other sum payable by an assessee or any other person under this Act, shall, save as otherwise provided in section 529A of the Companies Act, 1956, the Recovery of Debts Due to Banks and the Financial Institutions Act, 1993 and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002, be the first charge on the property of the assessee or the person, as the case may be.".

12. Amendment of section 150 – Procedure for sale of goods and application of sale proceeds:

In section 150 of the Customs Act, in sub-section (*2*), the following proviso shall be inserted, namely:

"Provided that where it is not possible to pay the balance of sale proceeds, if any, to the owner of the goods within a period of six months from the date of sale of such goods or such further period as the Commissioner of Customs may allow, such balance of sale proceeds shall be paid to the Central Government."

13. Amendment of section 151A – Instructions to Officers of Customs:

In section 151A of the Customs Act, after the words "levy of duty thereon", the words "or for the implementation of any other provisions of this Act or of any other law for the time being in force, in so far as they relate to any prohibition, restriction or procedure for import or export of goods" shall be inserted.

14. Amendment of section 157 – General power to make regulation:

In section 157 of the Customs Act, in sub-section (*2*), after clause (*c*), the following clause shall be inserted:
(*d*) the manner of conducting audit of the assessment of duty of the imported or export goods at the office of the proper officer or the premises of the importer or exporter, as the case may be.

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