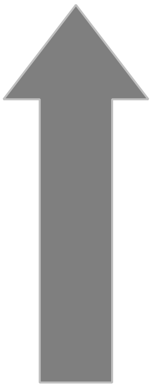
CENTRAL EXCISE ACT, 1944
Amendment Applicable for May, 2016

1. Basic Concepts

1. <u>Standard ad valorem rate of excise duty increased from 12% to 12.50% and education cesses leviable on excisable goods fully exempted.</u> **<u>[effective date 01.03.2015]</u>**

   (a) The standard ad valorem rate of excise duty has been increased from 12% to 12.50%. Further, education cess levied on all excisable goods as a duty of excise has been fully exempted.

   (b) Thus, in effect, the effective rate of excise duty has been increased from 12.36% (inclusive of cesses) to 12.50% (with cess exempted)



With effect from 01.03.2015,
effective rate of Excise Duty is 12.50%
(EC and SHEC exempted)

Till 28.02.2015, rate of excise duty was 12.36%
(with EC and SHEC)

2. Classification of Excisable Goods

1. Withdrawal of circular classifying coconut oil packed in small size containers upto 200 ml as Hair Oil **[circular no 1007/14/2015 dated 12.10.2015]**

   (a) Earlier, Circular No. 890/10/2009 dated 3.6.2009 had clarified that coconut oil packed in small container of sizes upto 200 ml was classifiable under central excise as Hair oil.

   (b) The aforesaid circulars has been withdrawn by circular **no 1007/14/2015 dated 12.10.2015.** The issue of classification would be decided considering the facts of the case read with the judicial pronouncement.

3. Valuation of Excisable Goods

1. “Factor” relevant to production under section 3A(2) and 3A(3) of Central Excise Act, 1944 to include “Factors” relevant to production **[effective 01.03.2015]**

   (a) Section 3A of the Central Excise Act, 1944 provides that in respect of notified goods, excise duty will be levied and collected on the basis of annual production capacity of the factory. Sub-section (2) of section 3A provides that the Central Government may, by rules specify the **factor** relevant to the production of such goods and the quantity that is deemed to be produced by the use of a unit of such factor; and

   (b) The Finance Act, 2015 has inserted explanation 3 in section 3A to provide that “factor” relevant to production, includes ***“factors”*** relevant to production. This amendment has been made to enable the Central Government to specify more than one factor relevant to the production of goods notified under section 3A.

4. CENVAT Credit

1. Manufacturers allowed to utilize credit of education cess (EC) and secondary and higher education cess (SHEC) for payment of excise duty.**[effective from 30.04.2015]**

   (a) A manufacturer has been allowed to utilise the following credits of EC and SHEC for payment of basic excise duty

   (1) Credit of EC and SHEC paid on inputs or capital goods received in the factory of manufacture of final product on/after the 1st March, 2015.

   (2) Credit of balance 50% EC and SHEC paid on capital goods received in the factory of manufacture of final product in the financial year 2014-2015.

   (3) Credit of EC and SHEC paid on input services received by the manufacturer of final product on or after the 1st March, 2015.

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2. CENVAT credit allowed on inputs and capital goods received directly in the premises of the job worker [**effective from 01.03.2015**]

   (a) Rule 4(1) and rule 4(2)(a) have been amended to allow CENVAT credit in respect of inputs and capital goods immediately on receipt of the same in the premises of job worker where the same are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be.

3. Time limit for availing credit on inputs and input services increased from 6 months to 1 year of the date of invoice [**effective from 01.03.2015]**

   (a) The time limit for availment of CENVAT credit on inputs and input services has been extended from six month to one year of the date of the issue of invoice/bill/challan etc.

   (b) Amendment have been made in third proviso to rule 4(1) and the fifth proviso to rule 4(7) to enhance the time limit for availability of credit in respect of inputs and input services respectively.

   (c) The provisos lay down that the manufacturer and provider of output service shall not take CENVAT credit after **one year** of the date of issue of any documents specified in rule 9(1).

4. Time limit for availing credit on inputs and input services increased from 6 months to 1 year of the date of invoice [**effective from 01.03.2015]**

   a) Earlier, rule 4(5)(a) provided for a common time limit of 180 days for return of inputs and capital goods sent to a job-worker for the purpose of availing CENVAT credit.

   b) Rule 4(5)(a) has now amended to provide CENVAT credit on inputs will be allowed even if any inputs as such or after being partially processed are sent to a job-worker and likewise, for further processing, testing, repairing, re-conditioning or for the manufacture of intermediate goods necessary for the manufacture of final product or any other purpose.

c) Such credit allowed only if it is established from the records/ challan/ memos/ or any other document produced by the manufacturer / output service provider within **180 days** of their sent from the factory/premises of output service provider, as the case may be.

d) CENVAT Credit on capital goods will be allowed even if any capital goods as such are sent to a job worker for further processing, testing, repairing, re-conditioning or for the manufacturer of intermediate goods necessary for the manufacture of final product or any other purpose.

e) Such credit will be allowed only if it is established from the records, challan or memos or any other document produced by the manufacturer / output service provider taking the CENVAT credit that the capital goods are received back by the manufacturer / output service provider, as the case may be, **within 2 years of their being so sent.**

f) Further, the credit will be allowed even if any inputs or capital goods are directly sent to a job worker without their being first brought to the premises of the manufacture / output service provider and in such case, the period of 180 days or 2 years, as the case may be, will be counted from the date of receipt of such goods by the job worker.

5. Provisions related to availment of CENVAT credit under partial reverse charge and full reverse charge brought at par [**effective from 01.04.2015]**

   a) The provisions for availing credit of service tax paid under partial reverse charge have now been aligned with the provision applicable for full reverse charge.

   b) Thus, now CENVAT credit of service tax paid under partial reverse charge by the service receiver will also be allowed on payment of service tax alone without linking it to the payment to the service provider.

   c) The second proviso has been omitted and first proviso to rule 4(7) amended to give effect to this amendment.

6. Explanations (i) and (ii) of rule 4(7) apply to entire rule 4 [**effective from 01.04.2015]**

   (a) Earlier the two explanations were applicable in respect of amount payable on non-payment of value of input service tax within three months of date of invoice as provided under sub-rule (7).

   (b) However, now they will also apply in relation to amount payable on non-receipt of inputs and capital goods within 180 days and 2 years respectively.

7. Explanations (i) and (ii) of rule 4(7) apply to entire rule 4 [**effective from 01.04.2015]**

(a) The definition of 'export goods' has now been inserted in the rule to mean any goods which are to be taken out of India to a place outside India.

(b) Clause 1(a) has been inserted in explanation 1 to rule 5 to give effect to this amendment.

8. <u>Inputs and input services used in the manufacture of non-excisable goods to attract reversal provisions under 6 [**effective from 01.03.2015]**</u>

(a) The provision for reversal of credit on exempted goods and exempted services have now been aligned.

(b) The implication of said amendment is that inputs and input services used in manufacture of non-excisable goods will also attract the reversal provisions under rule 6.

(c) To illustrate, if a manufacturer manufactures dutiable and non-dutiable goods, credit on input or input services used in the manufacture of non-excisable goods will have to be reversed in accordance with the provisions of rule 6.

9. <u>Provision applicable to first/second stage dealer regarding maintenance of records to be able to pass on the credit, to apply an importer issuing Covetable invoice. [**effective from 01.03.2015]**</u>

(a) A proviso has been inserted in the sub-rule (4) of rule 9 which lays down that provisions of this sub-rule will apply mutatis mutandis to an importer who issues an invoice on which CENVAT credit can be taken.

10. <u>Restriction can also be imposed on a registered importer for misuse of CENVAT credit under rule 12AAA. [**effective from 01.03.2015]**</u>

(a) Earlier, under rule 12AAA, the central government could impose restrictions on a manufacturer, first stage and second stage dealer, provider of a taxable service or an exporter, if there was a misuse of CENVAT credit.

(b) Such restriction can now be imposed in case of a registered importer also. Further, in the event of any misuse of CENVAT credit, registration of an importer can also be suspended like that of a dealer.

11. <u>Provisions introduced for recovery of CENVAT credit taken but not utilized and determining the manner of utilization of credit [**effective from 01.03.2015]**</u>

(a) Rule 14 which prescribes the provisions for recovery of CENVAT credit wrongly taken or erroneously refunded, has been substituted by a new rule to provide for recovery of CENVAT credit taken but NOT utilized.

(b) Further, the manner of determining utilization of credit has also now been provided in the rule itself. The provisions of the new rule are discussed below.

(c) Where CENVAT credit has been taken wrongly but not utilised, the same will be recovered from the manufacturer/ output service provider in accordance with the provision of section 11A of the CEA, 1944 and section 73 of the FA, 1994.

(d) Where CENVAT credit has been taken and utilised wrongly or has been erroneously refunded, the same will be recovered **along with interest** from the manufacturer / output service provider in accordance with the provisions of section 11A and 11AA (interest 18% for excise duty) of CEA, 1944 / section 73 and 75 (graded interest ranging from 18% to 30% for service tax) of the FA, 1994.

(e) For this purpose, all credits taken during a month will be deemed to have been taken on the last day of the month and the utilisation thereof will be deemed to have occurred in the following manner, namely:-

(i) the opening balance of the month has been utilised first;
(ii) credit admissible in terms of these rules taken during the month has been utilised next;
(iii) credit inadmissible in terms of these rules taken during the month has been utilized thereafter.

12. <u>Penalty provision under rule 15 align with new provisions of section 11AC of the CEA, 1944 and section 76 and section 78 of the FA, 1994 [**effective from 14.05.2015**]</u>

(a) The penalty provision under central excise and service tax have been rationalized vide FA 2015 by substituting section 11AC of the central Excise Act and Section 76 and 78 of the Finance Act, 1994 with new sections.

(b) Therefore, consequential amendments have been made in rule 15 to align the penal provisions provided therein with the penalty provisions provided under new section 11AC and section 76 and 78.

(c) Thus, wrongful availment/utilization of CENVAT credit on inputs or capital goods will now be liable to a penalty not exceeding 10% of the duty on such goods or ₹ 5,000 whichever is higher and

(d) Wrongful availment/utilization of CENVAT credit on input services will be liable to a penalty not exceeding 10% of service tax on such services.

(e) The quantum of such penalties can be reduced or even nullified depending on the time of payment of excise duty/service tax, interest and reduce penalty, as the case may be.

13. <u>Clarification regarding availment of CENVAT credit after 6 months (now one year) **[circular no. 990/14/2014 CX dated 19.11.2014]**</u>

(a) It has been clarified by CBEC that the limitation period of 6 months (now one year) for availment CENVAT credit would not apply when re-credit is taken of the amount reversed under:

(1) Rule 4(7) of the CCR, 2004 if the payment of value of input service and service tax payable is not made within 3 months of the date of invoice/

challan, then the CENVAT credit availed is required to be paid back by the manufacturer or service provider. Subsequently, when such payment of value of input service tax is made, the amount so paid back can be-recruited.

(2) Rule 3(5B) of the CCR, 2004 if the value of any input or capital goods before being put to use on which CENVAT credit has been taken, is written off or such provisions made in Books of Account, the manufacture or service provider is required to pay an amount equal to credit so taken. However, when the inputs or capital goods are subsequently used, the amount so paid can be re-credited in the account.

(3) Rule 4(5)(a) of the CCR, 2004 prescribes that in case inputs/capital goods sent to job worker are not received back within 180 days/2 years, the manufacturer or service provider is required to pay an amount equal to credit taken on such inputs / capital goods in the first instance. However, when the inputs/ capital goods are subsequently received back from job worker, credit can be retaken of the amount so paid.

14. Clarification regarding determination of place of removal in the case of exports for purposes of CENVAT credit of input services **[circular no. 999/06/2015 CX dated 28.02.2015]**

(1) While determining the eligibility of the input services to CENVAT credit, determination of place of removable is required. The following has been clarified in this regard:

(2) Place of removal in case of direct export of goods by the manufacturer exporter to his foreign buyer will be the port/ICD/IFS where the shipping bill is filed by the manufacturer exporter.

(3) Place of removal in case of clearance of goods from the factory for export by a merchant exporter will be the factory gate. However, in isolated cases, it may extend further also depending on the facts of the case, but in no case, this place can be beyond the port/ ICD/CFS where shipping bill is filed by the merchant exporter.

15. No refund of CENVAT credit under rule 5B to service providers providing manpower supply/ security services **[Notification no. 15/2015 dated 19.05.2015]**

(a) Rule 5B of the CENVAT credit rules, 2004 provides that service providers, rendering notified reverse charge services being unable to utilise the CENVAT credit availed on inputs and input services for payment of service tax on such output services, shall be allowed refund of such unutilized CENVAT credit.

(b) **With effect from 01.04.2015,** service tax with respect to supply of manpower for any purpose or security services is payable on the basis of full reverse charge, service providers of said services will no longer be eligible for refund of CENVAT credit availed on inputs and input services for payment of service tax on such output services. Further, application in Form A for claiming refund has also been suitably modified.

16. Reversal of credit under rule 6 not required in case of ethanol produced from molasses generated from cane crushed in the sugar season 2015-16.**[Notification no. 21/2015 dated 07.10.2015]**

    a. The provisions of sub-rules (1), (2), (3) and (4) of rule 6 would not apply to ethanol produced from molasses generated from cane crushed in the sugar season 2015-16 i.e. 1st October 2015 onwards, for supply to the public sector oil marketing companies, namely, IOCL, HPCL or BPCL for the purpose of blending with petrol, under Notification No. 12/2012 CE dated 17.03.2012.

    b. In case of such removal, though ethanol is removed without payment of duty, CENVAT credit on inputs/capital goods/input services used in the manufacture of ethanol can be availed. Further, where common inputs/input services used to manufacture ethanol and other dutiable final product, reversal of credit or payment of amount on removable of ethanol will not be required.

17. Output service providers allowed to utilized credit of EC and SHEC for payment of service tax on any output service of the CENVAT Credit Rules, 2004

    a. EC and SHEC leviable on all taxable services ceasing to have effect (with effect from 01.06.2015), an output service provider has been allowed to utilise the following credits of EC and SHEC for the payment of service tax on any output service;
        (i) Credit of EC and SHEC paid on inputs/capital goods received in the premises of the output service provider on or after 01.06.2015;
        (ii) Credit of balance 50% EC and SHEC paid on capital goods received in the premises of the output service provider in the financial year 2014-15; and
        (iii) Credit of EC and SHEC paid on input service in respect of which the invoice, bill, challan or service tax certificate for transportation of goods by rail as the case may be, is received by the output service provider on/after 01.06.2015

18. Amount payable under rule 6(3)(i) of CENVAT Credit Rules, 2004 enhanced from 6% to 7% of the value of exempted services.

    a. With effect from 01.06.2015, there is increase in the rate of service tax from 12% to 14%, aforesaid rate has been enhanced from 6% to 7%.

    b. Further, if any part of the value of a taxable services has been exempted on the condition that no CENVAT credit of inputs and input services, used for providing such taxable service, shall be taken, amount specified in rule 6(3)(i) has also been enhanced to 7% of the value so exempted.

5. General Procedure under Central Excise

1. Non/ short-payment of duty reflected in the periodic returns and penalty payable under rule 8(3A) to be recovered u/s 11 [**effective 01.03.2015**]

   (a) Rule 8 of CER contains the provisions pertaining to manner of payment of excise duty. Sub-rule (4) of rule 8 laid down that the duty as assessed under rule 6 and the interest under sub-rule (3) of rule 8 would be recovered in accordance with the provisions of section 11 in the same manner as they are applicable for recovery of any duty or other sums payable to the Central Government.

   (b) The said rule amended to provide that duty as assessed under rule 6 and mentioned in the return filed under these rules the interest under sub-rule (3) and penalty under sub-rule (3A) will be recovered in accordance with the provisions of section 11.

2. Provisions introduced for preservation of records in electronic form with authenticity by digital signatures [**effective 01.03.2015**]

   (a) Rule 10 has been amended by inserting a new sub-rule (4) which provides that records under rule 10 may be preserved in electronic form and every page of the record so preserved shall be authenticated by means of a digital signature.

3. Invoice to contain details of job worker and the manufacturer/ output service provider when goods are directly dispatched to job worker without first bringing them to the manufacturer/ output service provider [**effective 01.03.2015**]

   (a) Rule 11 contains the provisions relating to issuance of invoice. A second proviso has been inserted in rule 11(2) to lay down that if goods are directly sent to job worker on the direction of a manufacturer or the provider of output service, the invoice will also contain the details of the manufacturer or the provider of output service, as the case may be, as buyer and contain the details of job worker as the consignee.

4. Invoice to contain details of registered dealer and its customers when goods are directly dispatched to such customers without first bringing them to the premises of the registered dealer.[**effective 01.03.2015**]

   (a) A third proviso has been inserted in rule 11(2) to lay down that if goods are directly sent to any person on the direction of the registered dealer, the invoice will also contain the details of the registered dealer as the buyer and the person as the consignee and that person will take CENVAT credit on the basis of the registered dealer invoice.

   (b) As per fourth proviso, if the goods imported under the cover of a bill of entry are sent directly to the buyer's premises, the invoice issued by the importer should mention that goods are sent directly from the place or port of import to the buyer's premises.

5. Provision relating to issuance of an invoice under rule 11 to apply to an importer issuing CENVATable invoice.[**effective 01.03.2015**]

    (a) Earlier, sub-rule (7) provided that the provisions of rule 11 apply mutatis mutandis to goods supplied by a first stage dealer or a second stage dealer. The said sub-rule has been amended to also apply the provisions of rule 11 mutatis mutandis to goods supplied by an importer who issues an invoice on which CENVAT credit can be taken.

6. Provisions introduced for authentication of invoices by digital signatures.[**effective 01.03.2015**]

    (a) Authentication of invoices by means of digital signature has been provided by inserting new sub-rule (8) in rule 11. New sub-rule 8 provides that an invoice issued under this rule by a manufacturer may be authenticated by means of a digital signature.

    (b) However, where the duplicate copy of the invoice meant for transporter is digitally signed, a hard copy of the duplicate copy of the invoice meant for transporter and self-attested by the manufacturer would be used for transport of goods.

7. Belated filing of returns/Annual Financial Information Statement/Annual installed capacity statement to attract late fee [**effective date 01.03.2015**]

    (a) Rule 12 prescribes the provisions relating to filing of various central excise returns. A new sub-rule (6) has been inserted in rule 12 to lay down that where any return is submitted by the assessee after the relevant due date, the assessee will be required to pay an amount calculated at the rate of ₹100 per day subject to a maximum of ₹ 20,000 for the period of delay in submission of each such return or statement.

    (b) The returns are ER-1, ER-2, ER-3 and ER-8.

8. Restriction can also be imposed on a registered importer for evasion of excise duty under rule 12CCC [**effective 01.03.2015**]

    (a) Earlier, under rule 12CCC, central government could impose restriction on a manufacturer, first stage dealer and second stage dealer or an exporter, if there was evasion of excise duty.

    (b) Such restriction can now be imposed in case of a registered importer also. Further, in the event of evasion of excise duty, registration of an importer can also be suspended like that of a dealer.

9. Export under rule 18 to mean taking goods out of India to a place outside India [**effective 01.03.2015**]

    (a) Rule 18 governs the provisions relating to export of goods under a claim of rebate. The explanation to the said rule has been amended to provide that 'export' means goods to be taken outside India or supplied as stores to foreign going vessels/aircraft.

10. Registered importer to submit list of records and furnish required documents when called for under sub-rules (2) and (3) of rule 22 [**effective 01.03.2015**]

    (a) Earlier, provisions of sub-rule (2) and (3) of rule 22 relating to submission of list of records and furnishing of the required documents on demand to the relevant authority for scrutiny were applicable to every assessee and first and second stage dealer.

    (b) The said sub-rules have been amended so as to apply these provisions to a registered importer issuing CENVATable invoices as well.

11. Registered importer liable to penal provisions under rule 25

    (a) Prior to 01.03.2015, the provisions of rule 25 relating to confiscation and penalty were applicable to a **producer, manufacturer, registered person of a warehouse and a registered dealer**.

    (b) However, **with effect from, 01.03.2015,** the scope of applicability of rule 25 has now been extended to **an importer** who issues an invoice on which CENVAT credit can be taken.

    (c) Minimum general penalty under rule 25 increased from ₹ 2,000 to ₹ 5,000 i.e. with **effect from 14.05.2015**, the minimum general penalty prescribed under rule 25 has been increased.

12. Central excise registration to be granted online within 2 working days – verification of documents and premises to be carried out after the grant of the registration [**effective 01.03.2015**]

Application for registration	**Registration of different premises of the same registered person**	**Online filing of application**
Every person specified under rule 9(1) of CER, unless exempted from doing so by the board under rule 9(2), shall get himself registered with the jurisdictional deputy or assistant commissioner of central excise by applying in the form provided for registration in the website www.aces.gov.in	If the person has more than one premises requiring registration, separate registration certificate shall be obtained for each of such premises.	Application for registration or de-registration or amendment of the registration shall be filed **only online** on the website www.aces.gov.in, in forms provided in the website.
PAN based Registration	**Email, Mobile No. and Business Transaction No.**	**Registration No. and certificate**
Applicant for registration shall mandatorily quote PAN of the proprietor or the legal entity. Government department are exempt from the requirement of quoting the PAN in their online application.	Applicant shall quote his e-mail address and mobile number. Business transaction number such as Custom Registration Number import export code etc, which have been issued prior to the filing of the central excise registration application.	A registration certificate containing registration number shall be issued within 2 days online and a printed copy of such registration certificate shall be adequate proof of registration. However verification of premises and documents by the authorized officers will be done later.
Submission of documents	**Physical verification**	**Transfer of business and acquisition of factory**
The applicants shall tender self attested copies of the following documents at the time of verification of the premises: 1. Plan of the factory 2. Copy of PAN 3. Photograph 4. Proof of identity 5. Premises possession proof 6. Bank account details 7. MOA and AOA 8. Authorization of BOD/partners etc.	The authorized officer shall verify the premises physically within 7 days from the date of receipt of application through online. If there is any errors or clarification required officer will intimate the same to assessee for rectification within 15 days otherwise registration shall stand cancelled. However, the officer has give the opportunity of being heard.	Where a registered person transfer his business to another person, the transferee shall get himself registered afresh. Where an application has acquired an old factory from a bank or a financial institution, he shall get himself registered afresh.

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<tr><th>Change in the constitution</th><th>De-registration</th><th>Cancellation of registration</th></tr>
<tr><td>Where a registered person transfer his business to another person, then the event of any change in the constitution of the firm leading to change in PAN, he shall get himself registered afresh.
However where change does not result in Change in PAN Number the assessee shall be intimate to the jurisdictional central excise officer within 30 days of such change by way of amendment in the registration details and registration number will remain same.</td><td>Every registered person, who ceases to carry on the business for which he is registered, shall de-register himself by making an online application. Where there are no dues pending recovery from the assessee, application for de-registration shall be approved within 30 days from the date of filing of online declaration and the assessee shall be informed, accordingly.</td><td>A registration certificate granted under rule 9 may be cancelled after reasonable opportunity to the assessee to represent his case against the proposed cancellation by the Deputy or Assistant Commissioner of Central Excise, in any of the following situations-
1. A premise proposed to be registered is found to be non-existent.
2. Rectification request not respond within 15 days
3. Mis-declaration in the application form is substantial.
4. Where the factory is closed and no dues pending.</td></tr>
<tr><td colspan="3">If a person manufactures or carries on trade in goods falling under chapter 50 to 63 (textile article) of first schedule of CETA, 1985 or if a person manufactures compressed natural gas (Tariff item 2711) and has more than one premises requiring registration, he may obtain single registration for all such premises, which fall within the jurisdiction of one commissioner of central excise provided he declares the details of all such premises in the specified form.</td></tr>
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13. Manufacturer receiving excisable goods for specified use at concessional rate of duty allowed to furnish letter of undertaking, instead of executing a bond, on fulfilment of specified conditions [**effective from 01.03.2015]**

(a) Rule 3 of central excise (Removal of goods at concessional rate of duty for manufacture of excisable goods) Rules, 2001 required a manufacturer who intended to receive excisable goods for specified use at concessional rate of duty to make an application in quadruplicate and execute a general bond with surety or security.

(b) With effect from 01.03.2015, rule 3 has been amended to provide that it would be sufficient if the manufacturer furnishes a latter of undertaking.

(c) However, such a relaxation would be available only to that manufacturer against whom no SCN has been issued u/s 11A(4) or 11A(5) of CEA, 1944 or no action is proposed under any notification issued in pursuance of rule 12CCC of CER, 2002 or rule 12AAA of CCR, 2004.

14. Centralised registration allowed to manufacturer of aluminium roofing panels subject to fulfilment of specified conditions.**[Notification No. 17/2015 dated 08.06.15]**

a. Every manufacturing unit engaged in the manufacture of aluminium roofing panels has been exempted from obtaining the central excise registration, subject to fulfilment of the following conditions.
   (i) Such roofing panels are consumed at the site of manufacturer for execution of the project and
   (ii) Manufacturers of such goods has a centralised billing or accounting system in respect of such goods manufactured by different manufacturing units and he opts for registering only the premises or office from where such centralised billing or accounting is done.

15. Conditions safeguard and procedure for preserving digitally signed records and issuing digitally signed invoice prescribed.**[Notification No. 18/2015 dated 06.07.15]**

Rule 10(4) and rule 11(8) of the Central Excise Rules, 2002 provide for authentication of every page of excise records preserved in electronic form and of invoices respectively, by means of digital signature, further, rule 10(5) and rule 11(9) have authorized CBEC to notify the conditions, safeguards and procedure to be followed by an assessee for preserving digitally singed records and issuing digitally signed invoices.

Class of Digital Signature Certificate	**Intimation to Department**
Every assessee proposing to use digital signature shall use class 2 or class 3 Digital Signature Certificate duly issued by the Certifying Authority in India. **Class 2 Certificate** These certificates are issued for both business personnel and private individuals use and are available for download after verifying a person's	Every assessee proposing to use digital signature shall intimate the following details to the jurisdictional Deputy/ Assistant Commissioner of central excise, at least 15 days in advance: - Name, email-ID, office address and designation of the person authorized to use the digital signature. - Name of the certifying authority

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<td>identity against a trusted and pre-verified database.
<u>Class 3 Certificate</u>
This certificate is issued to individuals as well as organizations. Since these are high assurance certificates, primarily intended for e-commerce applications, they shall be issued to individuals only on their personal (physical) appearance before the certifying authorities.</td>
<td>- Date of issue of digital certificate and validity of the digital signature with a copy of the certificate issued by the certifying authority along with the complete address of the said authority.
However, in case of any change in aforesaid details, complete details shall be submitted afresh within 15 days of such change.
In case of assessee already using digital signature, aforesaid details should be intimated within 15 days of issue of this notification.</td>
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<td><u>Maintenance of records</u>
Every assessee who opts to maintain records in electronic form ;
1. And has more than one factory/service tax registration shall maintain separate electronic records for each factory/service tax registration.
2. Shall on request (in a letter or email) by a central excise officer, produce the specified records in electronic form and invoices through e-mail or on a specified storage device in an electronically readable format for verification of the authenticity of the document.
3. Shall ensure that appropriate backup of records in electronic form is maintained and preserved for a period of 5 years immediately after the financial year to which such records pertain.</td>
<td><u>Enquiry, Audit or Investigation</u>
A central excise officer, during an enquiry, investigation or audit, may direct an assessee to furnish printouts of the records in electronic form and invoices and may resume printouts of such records and invoices after verifying the correctness of the same in electronic format; and after the printouts of such records in electronic form have been signed by the assessee or any other person authorized by the assessee in this regard, if so requested by such Central Excise Officer.</td>
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<td colspan="2"><u>Note:-</u>
The above conditions will also apply in case of preservation of service tax records in electronic form and authentication of service tax invoices by digital signatures.</td>
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6. Export procedure

1. Exemption from sealing in a package/container to export of bulk cargo [for e.g. coal, iron-ore, alumina, concentrate, heavy machinery etc.] which is difficult to seal in package/container.

   a. The conditions and procedure relating to export (under bond) without payment of duty to all countries except Bhutan. The said provision stipulates that before clearing the export consignments from the factory/ warehouse/ any other approved premises, goods need to be sealed-either by Central Excise Officer after examination of such goods or by the exporter himself under self-sealing and self certification.

   b. However, bulk cargo e.g. coal, iron-ore, alumina concentrate, heavy machinery etc. are difficult to seal in packages or container. Consequently notification has been issued which provides that where the nature of goods is such that the goods cannot be sealed in a package or a container such as coal or ore, etc., exemption from sealing of package or container may be granted by the principal chief commissioner /chief commissioner of central excise subject to safeguard as may be specified by him in the permission.

   c. The safeguards shall, include the following:-
      (1) Method of verification of quantity and quality of goods including testing of goods where necessary at the place of removal or despatch and at the port of export or SEZ, where the goods are received;
      (2) No permission of duty shall be allowed for loss of goods within transit;
      (3) Permission shall be given on case to case basis for a specified period not exceeding 1 year at a time and may be withdrawn in case of misuse; and
      (4) Any additional safeguards as may be specified.

7. Demand Adjudication and Offences

1. Categories of cases where extended period of limitation applies but the transactions are recorded in the specified record removed from the statute [**effective from 14.05.2015**]

   (a) Sub-sections (5), (6) and (7) have been omitted. These sub-sections provided for reduced penalty in cases where fraud etc. was involved but the transactions are recorded in the specified record.

   (b) These provisions have now been removed from central excise legislation so as to bring uniformity in all fraud cases irrespective of whether the transaction is recorded or not.

2. Definition of relevant date provided for cases (i) where a return is not filed on the due date and (ii) where only interest is required to be recovered [**effective from 14.05.2015**]

   (a) Sub-clause (ii) of clause (b) of explanation 1 clarified that relevant date in the case of excisable goods on which excise duty has not been levied or paid or has been short-levied or short-paid and the return has been filed on due date is the date on which such return has been filed.

   (b) Thus, earlier, the relevant date was define only in respect of cases where the return was filed on due date.

   (c) The said sub-clause (ii) has been amended to provide that relevant date in the case of excisable goods on which excise duty has not been levied or paid or has been short-levied or short-paid and the return has been filed is the date on which such return has been filed.

   (d) Therefore, now the definition of relevant date has also been provided in respect of cases where a return is not filed on the due date.

   (e) A new clause (vi) has been inserted in Explanation 1 to provide the relevant date in a case where only interest is to be recovered. In such cases, the relevant date will be the date of payment of duty to which such interest relates.

3. Demand provisions under section 11A not to apply where non-payment or short payment of duty is shown in periodic returns [**effective from 14.05.2015**]

   (a) A new sub-section (16) has been inserted to lay down that provisions of section 11A will not apply to cases where the liability of duty not paid or short paid is self-assessed and declared as duty payable by the assessee in the periodic returns filed by him. In such cases, recovery of non-payment or short-payment of duty shall be made in such manner as may be prescribed.

   (b) Corresponding amendment has been made in rule 8(4) of central excise rules 2002 to provide that provisions of section 11 will be applicable for recovery of non/short-payment of duty declared in the periodic returns.

(c) Section 11 provides for recovery of amount due from assessee by attachment and sale of excisable goods or certification proceedings. The amendment basically implies that recovery proceedings can be initiated without issuing a SCN.

4. Only the SCN issued post enactment of the Finance Bill, 2015 will be governed by amendment of section 11A [**effective from 14.05.2015**]

(a) Explanation 2 has been substituted with a new Explanation to provide that any non-levy, short levy, non-payment or erroneous refund where no SCN has been issued before 14.05.2015 (the date on which the Finance Bill, 2015 received the assent of the president of India) will be governed by the provisions of section 11A as amended by the FA, 2015

5. Penalty provision u/s 11AC rationalized

Section 11AC which contained the penalty provisions for short/non-levy or short/non-payment or erroneous refund of excise duty in fraud cases has been substituted by a new section. The penalty provisions under the new section can be broadly classified under two categories;	
Penalty provisions where duty has been short/non levied or short/non paid or erroneous refunded for reason **other than** fraud etc.	Penalty provisions where duty has been short/non levied or short/non paid or erroneous refunded by **reason of fraud, collusion etc.**
The person who is liable to pay duty as determined u/s 11A(10) will also be liable to pay a penalty not exceeding 10% of the duty so determined or ₹ 5,000, whichever is higher.	The person who is liable to pay duty as determined u/s 11A(10) will also be liable to pay a penalty equal to the duty so determined.
However, if such duty along with interest payable u/s 11AA is paid either before the issue of SCN or within 30 days of issue of SCN (but before adjudication order), no penalty shall be payable by the person liable to pay duty or the person who has paid the duty and all proceedings in respect of said duty and interest will be deemed to be concluded	However, if the duty and the applicable interest is paid within 30 days of the communication of SCN, the amount of penalty liable to be paid by such person will be reduced to 15% of the duty demanded , subject to the condition that such reduced penalty is also paid within the period so specified. Further, all proceedings in respect of the said duty, interest and penalty will be deemed to be concluded.
However, if the duty and interest is not so paid and the matter is adjudicated and a order determining duty passed u/s 11A(10), the penalty would be reduced to 25% of the penalty imposed if the following amounts are paid within 30 days of the date of communication of the order of the central excise officer who has determined such duty;	However, if the duty and applicable interest is not so paid and the matter is adjudicated and a order determining duty is passed u/s 11A(10), the penalty would be reduced to 25% of the duty so determined if the following amounts are paid within 30 days of the date of communication of the order of the Central Excise Officer who has determined such duty;

8. Notifications, Departmental Clarification and Trade Notices

1. Minimum penalty prescribed under sun-rule (4) and (5) of section 37 increased from ₹ 2,000 to ₹ 5,000**[effective 14.05.2015]**

    (a) The Finance Act, 2015 has amended sub-section (4) and (5) of section 37 so as to increase the quantum of minimum penalty prescribed under these sub-sections from ₹ 2,000 to ₹ 5,000.

2. Board Circulars contrary to supreme court the high court judgement (where Board has decided not file an appeal on merit) not binding on Departmental officers.

    (a) CBEC has clarified that Board Circulars contrary to the judgements of Hon'ble Supreme Court and High Court judgements where board has decided not to file an appeal on merit, become non-est in law should not be followed.

    (b) All pending cases decided after the date of the judgement would, conform to the law laid by the Hon'ble Supreme court or high court , as the case may be, irrespective of whether the circular has been rescinded or not.

9. Advance Ruling

1. Benefit of Advance Ruling extended to resident firm [**effective from 01.03.2015]**

   (a) Earlier, public sector companies, resident public limited company and resident private company were notified u/s 23A(c)(iii) of the CEA, 1944 as the class or category of resident persons who can apply for advance ruling in case of specified matters relating to central excise duty.

   (b) The scope of advance ruling by additionally notifying resident firm as class or category of residents who can apply for advance ruling in case of specified matters relating to excise duty. Thus, now a resident firm also be eligible to make an application for advance ruling in excise duty.

   (c) The firm shall have the meaning assigned to it in section 4 of the Indian Partnership Act, 1932 and includes-
      - (i) The limited liability partnership as define in section of the LLP Act, 2008;
      - (ii) LLP which has no company as its partners; or
      - (iii) The Sole proprietorship; or
      - (iv) One person company

10. Settlement Commission

1. All proceedings referred back to the adjudicating authority for a fresh adjudication and not just the proceedings referred back in nay appeal or revision ineligible for settlement. [**effective 14.05.2015**]

    (a) The proviso to sub-section (c) of section 31 has been amended by the FA, 2015 so as to provide that when **any** proceeding is referred back, whether in **appeal or revision or otherwise**, by any court, appellate tribunal authority or any other authority to the adjudicating authority for a fresh adjudication or decision, then such case shall not be entitled for settlement