A

INDIRECT TAXES

Shekar

Dt 5.04.2011

→ Direct taxes are those which can be leviable directly on individual like Income tax, Gift tax and wealth tax, estates tax.

→ Indirect taxes are ~~taxes are~~ being paid by some person, But burden is ultimately tran-sfered to enduser i.e consumers. Indirect taxes are Central Excise, Customs duty, Service tax, Sales tax, Expenditure tax ~~etc~~, octroi, Entry tax.

As per Article 246(1) of constitution of India states that parliament has exclusive power to make law in respect taxes mentioned in the List-I 7th schedule of the constitution also called as Union list.

As per 246(3) Constitution of India states that States Govt has exclusive powers in respect of ~~to~~ make laws related to taxes. mentioned in the List-II of 7th schedule of Constitution of India.

G. Shekar
9303733918

List - III States that the where both State and Central Govt have powers to make laws i.e in Concurrent list.

Unions list relevent to taxation :

E-filing and e-returns are mandatory w.e.f 1-4-10 in case of assesse whose has paid central excise or Service tax Rs 10 lakh or above during the previous financial year. (either cash or cenvat credit or both)

Basics of Central Excise duty

Persons liable to Pay excise duty:

→ Manufactures

→ wherehouse owner

→ purchases of kandasari Molasse.

→ Job workes / Raw material supplier

Goods and excisable goods

for the purpose of levy Central excise

goods must be movable and marketable.

Manufactures:

In Union of India v/s Delhi cloth Mills Co Ltd. Manufactures means bringing into existence a new substance thus manufactures implies a change but every change is not manufacture. A new and different article must emerge having a distinctive name, character and use.

deemed manufacturer:

Repacking, Relabelling putting or altering MRP in case of articles covered under MRP valuation provision, Simply Repacking is not a deemed manufacturing it has to be bulk pack to retail pack, In case of products covered under MRP valuation it can be manufacture.

April 14th Zameez Bday 4

Dt: 3-4-2011

MRP BASED VALUATION:

→ Under CEA 4A overrides sec 4 when are printed MRP on it.

formula for calculation of AV:

$AV = z$

Duty @ 10.3% = $0.103 \times z$

e.g. selling price Rs 10,000
Excise rate 16%
Trade discount 1200
freight 750

$= 10000 / 1.16$

$= 8620.68$

$10000 - 1200 = 8800 - 750 = \underline{6940}$

eg: SP = 10000 freight Rs 250 Packing Rs 200

CST @ 4%

$10000 - 250 - 200 = 9550.00$

$= \dfrac{9550}{1.2032} = \underline{7859.00}$

Q: How the constitution of India given powers to impose tax relating to Central Excise ?

Our Constitution of India Came into effect 1950, Jan, 26, Article 1(1) Constitution of India reads India that is Bharat " Shall be a Union of States!

In our constitution Seventh Schedule List - I ~~empower~~ Entry 84 empower Central government to impose and collect Central excise on manufactured goods and produced within India except alchohic drugs for human Consumption.

Q: How the e-filing and e-payment is mandatory ?

w.e.f 1.4.2010 e-filing of returns and e-payment of taxes has been made mandatory, in case of assesse who has paid Service tax or central excise of Rupees ten lakhs or more during the previous financial year.

Q: Persons who is liable to pay excise duty?

-> Duty liability is on manufacture Even he is collect from buyer or not

-> In case of goods stored in warehouse under rule 20, the duty liability on person who stores the goods in ware house (rule 4(1) CEA)

-> In case of Molasses Duty liability is on procurer (purchases) (rule 4(2)(a))

-> In case of Job work duty liability is on Job worker, Even though he is not the actual owner of the goods, If the Raw material Supplier sends goods under Cenvat Provision duty liability is on Supplier.

Q: Define Goods & Excisable goods!

As per Judicial Interpetation an article must satisfie two conditions to become a excisable goods

→ It must be movable.

→ It must be markatable.

However actual sale is not neccessary.

Q: Differentiate between non-excisa-ble goods and non-dutable goods.

Ans: once any goods are mentioned in Central excise act, wether it is a zero rate or nill rate these are called excisable goods, or exempted goods. if the goods are not mentioned in the Central excise act goods are non-dutable goods.

Q: Write a Short note on process amounting to manfacture?

All process are not amound to manu-facture. Unless it is specified in CEA. the Process should emerge new and Identifiable and markatable product. Right now CEA hava 35 list of process amount to manufacture.

-> Dairy product processing the cheese, butter, is amounting to manufacture. It is emerging a new Identifiable and markatable product.

-> Relabelling of Apparels Bulk pack Retail pack amounting to manufacture

-> Relebelling of Mead & Fish bulk pack to retail pack amount to manufacture.

-> Relebelling or Labelling of organic Chemi-cals from Bulk pack to retail pack amount to manufacture.

→ Relebelling or Labelling of Bulk package to Retail pack goods covered under MRP provision will amount to deemed manufacturing under sec 4A CEA.

Q: Specify the cases where Job worker will be treated as manufacture and where Raw material supplier will be treated as manufacture?

→ Job worker treated as manufacturers where

1) Goods manufactured will covered under MRP act and while returning the goods Job worker would have altered MRP

2) Goods are supplied on principal to principal basis then the duty liability will be with the Job worker.

→ where raw material supplier will be a manufacturer?

1) Relationship Between manufacturer and supplier on agency Basis

2) Person employed by the Raw material supplier to manufacture the goods.

3) There is no principal to principal relationship, Job worker treated as hired Labour.

4) Manufactures are not Job workers where dummy Job worker are there.

5) Labour doing work allotted to them under supervision and control of principal

BACKGROUND OF PROCEDURE IN EXCISE

→ SRP = Self Removal procedure.
→ Payment should be made 5th/6th of the following month
→ more than ten lakh, payment should be made in e-payment.
→ Cenvat Credit Rules 2004
Central excise appeal Rules 2001
Central excise settlement cases 2001

Large Tax payers

It will be a single window where all excise, service tax, income tax and corporation taxes are paid.
LTU is headed chief Commissioner each LTU assisted by Asst comm / client executive.

LTU: Rule 2(ea) of Cenvat credit rules He eligible as LTU If he has paid excise duty or service tax in cash (current Account) of Rs 5 crores or more, who has paid Advance tax / corporation tax of more than Rs 10 crores

SPECIAL AUDIT – VALUATION AUDIT AND CENVAT CREDIT AUDIT

Valuation Audit: AC/DC feels that there is any fraud in valuation of goods, the amount shown in Invoice is suppressed AC/DC can order for valuation Audit as 14A of CEA with prior permission of Chief Commissioner. They can also depute some cost of charted accountant for this, give the specified time to report the Audit report.

Special Audit/Cenvat Credit Audit:

As per section 14AA of CEA, AC/DC feels that there is misuse in cenvat credit they may order for special Audit with prior permission of chief commissioner. Maximum time limit to submit the Audit report is 180 days. from the date of reciept of audit order.

Frequency of Departmental Audit

→ Units paying duty more than 3 crores
— Every year

→ " " " 1 to 3 crores – once in two years

→ " " " 50 lakh to 1 crores
→ once in 5 years

→ Units paying duty below 50 lakhs
— 10% units every years

CUSTOMS LAW

Dt- 16/4/11

Seventh schedule constitution of India Entry 83 reads ~~as~~ ~~to~~ "Duties of customs including export duties"

Custom Tariff Act 1975

SAD: Special Additional duty: It is payable once the goods are cleared from bonded warehouse. As removal from custom bonded warehouse is taxable event and rate of duty applicable on the day applies

Rate of Duty & Duty draw back:

In case of export Rate is applicable date on which clearance for export is permitted by customs officer

CVD = COUNTERVAILING DUTY

Total custom duty payable w.e.f 27.2.10 is 26.85% and general excise duty is 10%.

Assessable value: value of goods imports after converting it into Indian rupees at exchange rate as per CBE&C circular plus 1% landing charges.

Calculation of custom duty payable.

	Duty	Amount	Total duty
A) Assessable value		10,000.00	
B) Basic custom duty	10	1000.00	1000.00
C) Sub total for calculating CVD (A+B)		11000.00	
D) CVD (C x Excise duty)	10	1100.00	1100.00
E) Education cess	2	22.00	22.00
F) SAH	1	11.00	11.00
G) Subtotal for Edu. Cess (B+D+E+F)		2133.00	
H) ~~SAH~~ Education Cess	2	42.66	42.66
I) SAH	1	21.33	21.33
J) Sub total for CVD (C+D+E+F+H+I)		12196.99	

	Duty	Amount	Total
K) Special CVD 4% of 3	4	487.88	487.88
L) Total duty			2684.87
m) Total duty Round off			2685.00

Q: Cenvat credit Availability of following duties?

i) CVD (ii) Education cess (iii) SAH
(iv) SAD

→ Cenvat credit of ~~CVD~~ is available for Manufactures CVD, Education cess, SAH and special Additional Duty.

→ A Buyer who is service provider, is eligible to avail Cenvat credit of CVD, Education cess and SAH

→ A Buyer who sells Imported goods in India after charging vat/sale tax can get refund of ~~CVD~~ Special CVD 4% of Special CVD Amount.

Q: what is CVD, How it will be calcu-
lated?

Ans: Additional customs duty also called as Countervailing duty. Additional duty is levied under Section 3(1) of customs act. It is similar to excise duty as if imported goods are manufactured in India they are liable to pay duty like that ~~special~~ this countervailing duty is payable. If the products are leviable with different rates, among that highest rate will be taken for levying duty.

Calculation of additional duty:

while calculating the additional duty following duties will not be considered

- Safeguard duty
- Anti dumping duty
- Customs portion of Education cess & SAH

- National Calamity Contigent duty

Simply while calculating CVD value Basic excise duty, Education Cess and S&H cess of excise duty will be considered.

Cenvat Credit on CVD can be utilised by manufactures.

Additional duty Under Sec 3(3): Inorder to nuetralise the net impact on domestic market the duty is leviable. Foreign Suppliers had not been paid excise duty on Inputs, they get Advantage of that extent in our market Inorder to Set off that Impact Additional duty is Payable.

The levy has use when goods are manufactured under Indigenious manufactures ~~the~~ Additional duty is exempted.

As well as Indigenous manufactures cannot avail the Input of Additional Duty at the same time they cannot get refund.

Special CVD (SAD: purpose of Additional duty to counter balance the sales tax, vat local tax or other charges leviable in India on the sale, manufacture, purchase Intention to provide level playing field to manufactures in India who are manufa cturing similar goods. Hence it is termed as special CVD (Additional duty)

Now SDA will be Imposed @ 4% on Imported goods wef 1-3-06

Special CVD is available as Cenvat Credit for manufactures not for Service provider

Anti dumping duty: to protect the domestic market Central govt can impose some duty as per Sec 9A of Customs Tariff Act.

This duty is levrable where goods are sold lower than normal price and at same time same goods has been manfacturing in Indian market.

Dumping duty as follows:

→ Normal price in exporting country Rs 11.00
export price Rs 8.00 Dumping Margin is Rs 3.00
(11 − 8 = 3)

→ If landed cost is Rs 9.00 and fair selling price in India is Rs 10.00 Injury margin is Rs 1.00 (10 − 9 = 1)

Safe guard duty! Safe guard duty is a step forward protecting the domestic industry for a limited period with ultimate objective free and fair trade. Its prevent injury to domestic market and get suffering on its own.

It can be leviable, where imports from any developing country, exceeds 3%. Or imports from any developing country club together exceeds 9% of total imports of that article in India.

No CVD, no Education cess on Safe guard duty

CENVAT CREDIT

CENVAT - Central value added ~~Tax~~ Tax

Input of goods for cenvat

(i) All goods except light diesel oil, high speed diesel and motor spirit common known as petrol used in relation to manufacture final product.

(ii) Input Includes lubricant, oil, greases and coolant oils accessories of final product, cleared ~~with~~ along with the final product.

(iii) Input also includes goods used in factory further manufacture of capital goods

(iv) cenvat available on

Paints

Packaging material

Lubricating oil, greases, coolants.

Input service distributor :

(i) An office managing the business of many factures or producer of final products or provider of output services

(ii) which receives invoices issued under Rule 4A of service tax rules, purchasing input services

(iii) Issues invoice, bill or challan for the purpose of distributing the credit of service tax paid on said services to such manufacturer.

who will satisfies above three conditions called as input service distributor.

CUSTOMS LAW :

Dt 14:03:2011

→ World customs organisation located in Brussel
Jan 26 treated as world customs day

→ Customs Act 1962

→ Customs Tariff Act 1975

→ In the Constitution 7th Schedule entry 83 empower parliament to levi customs duty

→ Sec 156 of customs Act empower parliament to frame rules

→ Sec 157 of Customs Act empowers CBEC to regulate customs law.

→ Charging section: Rate applicable for customs will changed as Sec 12 customs law. It will tell that rates applicable as per customs Tariff act 1975.

Similarities between customs, central Excise and service tax;

→ Constitution of India 7th Schedule empowers

→ Regulating Body same for all i.e CBE&C

→ Rules are framed by parliament for all

-> Remote areas is look after by one commissi-
-ner only
-> Central Rules are same in Central excise
and ~~Customs~~ Service tax.
-> Transaction value and Assessable value are same in customs & central excise
-> Appealate Authority same for all.
-> Customs & excise officer check any area.
-> Customs & excise officer interogate any one.
-> Customs & excise officers interogate any one.

Rate applicable for duty

-> on which date goods are removed from custom warehouse (SAD)
-> Day where Bill of Entry or Entry of vessel in port is later.
-> Rate of duty applicable the Day when clearance is made ~~from~~ for export from customs officer.

Territorial waters

-> 12 nautical miles from Base line.
-> 200 nautical miles from Base for Exclusive Economic zones

Customs water:

-> 24 nautical miles from Base line

Powers of customs officer on customs water:

-> Arrest any person in customs water of India

-> check any vessel in indian customs wa...

-> check any person inside the vessel.

-> confiscation of any prohibited goods

Dutiable goods:

Any goods under customs warehouse called as Dutiable goods even it is a nil rate goods.

Non Dutiable goods:

Goods which are not covered under customs tariff act.

Types of Duties:

-> U/s 3(1) CTA CVD. (central excise)

-> U/s 8B & 8C CTA Safe guard duty.

-> U/s 9A CTA Anti dumping duty. (Injury margin)

-> U/s 3(5) Special CVD (sales tax)

(14(1) CA or 14(2) CTA)
Assessable value : CIF value of Imported goods converted into Indian currency at exchange rate as per CBEC plus 1% landing charges.

CVD = value of goods + Basic Custom Duty + NCCD

METHODS OF VALUATION FOR CUSTOMS

Q: what are the methods of valuation under Customs?

Ans: methods of valuation for customs

1. Transaction value for customs goods
2. Transaction value of Identical goods
3. Transaction value of Similar goods
4. Deductive value based on Identical or Similar goods sold in India
5. Computed value Based on cost of manufacture plus profit
6. Residual method based on reasonable means and data available.

Methods are applied sequentially If one method doesnot work next method come into force. and so on. But computed method value is used before deductive method.

1. Transaction value of Imported goods

Transaction value Includes

→ Freight, Insurance.

→ Designs

→ Transportation upto the port

→ Sales commission

→ Cost of packing (Material & Labour)

→ loading & Unloading charges

→ Royalty, licences fees

above items are included in transaction value, If they are already not included in invoice.

<u>when transaction value is acceptable</u>

→ Unconditional sale

→ Sale from unrelated person

→ No restrictions on disposition

Some times transaction value may not be available as such

→ Gift, hire ~~purchase~~, lease, loan

In this cases other methods are used for valuation.

2. Transaction value of Identical goods

Identical goods

(i) Goods Should be same in all respect. Including physical characteristics, quality reputation except minor difference in appearances that may not affect value of goods.

(ii) Goods should be produced in same country in which goods being valued

(iii) they should be produced by same manufacturer

(iv) If design, Art work, engineering done by buyer in India for reduced price in connection with export or import of goods, the will not be identical goods.

valuation: Transaction value of identical goods at the same commercial level and in substantially same quantity as the goods being valued shall be used to determine the value of imported goods.

3. Transaction value of Similar goods

Similar goods:

(1) Similar goods have same character stics and same use, interchangeble. Same reputation

(2) Should be manufactured in the same country in which goods being valued.

(3) Should be manufactured by same manufacturer. Price rate not available, price same manufacturer in the same country will be considered.

(4) ~~Art~~ work, design, sketch, engineering work undertaken in India were completed by buyer on these import goods free of charge or at reduced rate for use in connection with the production and sale for export of this imported goods, these will not be similar goods.

valuation: It can be done similar to identical goods. Transportation and should be adjusted.

4. Deduction method for custom valuation

valuation can be done by reducing the post importation expenses from selling price.

Selling Price: the price at which greatest aggregate quantity of identical or similar goods are sold to unrelated person in India.

5. Computed value methods

Under this method requesting customs officer cost of production details are borrowed from exporter.

6. Residual method:

In this method valuation can be done on the basis of data available in India.

VAT

Basics of vat?

Tax Rates under vat?

Distinction between zero sale & Excemption Sale?

Impact of vat on CST?

Problems: 2, 3

Cenvat credit

Central Excise - 25%. problems - 25%.

place of Removal?

Input service distributor?

Doc for Availing Cenvat credit

Problem: 2

Central Excise: 25%.

(All types of Acts)

Basics - 5%.

Constitutional Background?

Goods, Excisable goods?

manufacturure?

Transaction value?

Duty on adrolurum basis?

Captive consumption?

problems: Page no 39, - 2

Refund ED

Excemption of ED

Customs duty:

customs valuation

customs procedure - Imports

Submission of BOY of entry

Baggage?

Couriers & Imports through Post?

customs value inclusion

Service Tax:

Basics of service Tax

Service tax Back Calculation

Excemption from S. Tax

Taxable services

Payment of Service Tax

General excemption for Small Service provider?

Central Sales Tax

Introduction of CST

Nexus theory

principles & objectives of CST

Definition

Goods includes all movable property?

explain

Declared goods, what are the goods

Sales price? Inclusion in sales price

Sales price exclusion

Inter states sales Sec 3

Sec 2 - Sec 8(6)

~~Liabilities - Sec 18~~

Sec 3

Sec 6(1)

Sec 6 2(1) Transit sales

liability of Director of pvt com in liquidation Sec 18 - ?

Forms under CST?

C, D, F, J, H

problems: 1, 3, 6, 7

Central Excise

Direct Taxes: The taxes which are leviable directly on the individual like Income Tax, ~~Octroi~~, wealth tax, estate tax.

Indirect Taxes: The Tax liability on one person burden is on another person. Taxes are paid by manufactures, traders liability on the said parties only. The burden of payment will be on end users. Indirect taxes are Excise duty, Customs duty, corporation tax, octroi, entry tax. Sales tax, Service tax.

Article 246(1) constitution of India empowers central govt to impose tax make rules regarding tax with respect to List-I seventh schedule or Union list.

Article 246(3) constitution of India has given exclusive powers to state govt to make law with respective to seventh schedule or state list List-II

Article 246: Give exclusive power to Central govt to make laws in respect of List-I, II, III seventh Schedule, with respect to union territories.

Union list:

Entry no 82: Income tax other than Agriculture Income.

83: customs duty

84: Excise duty except Alchohal

85: Corporation tax

92A & B: Interstate sale except new paper.

92C : Service tax.

97: other (Residual powers)

State list:

46: Taxes on Agricultural Income

51: Excise duty on Alchoholic liquors opium and narcotics

52: Entry Tax (Entry is local Area for consumption)

54: Sales tax

E-filing and e-payment manadatory w.e.f 1-4-10: E-filing and e-payment become manadatory for those who had paid E. duty / S. tax more than ten lakh during the previous financial year. either cash or cenvat credit or both.

Accelerated depreciation in case of computer are removed after use:

If the capital goods are removed after use cenvat credit can be reduced by 2.5% per quarter ~~from~~ per year. Service provider will pay an amount equal to cenvat credit taken on said capital goods.

In case of computers, are removed after use the cenvat credit reduced by the rate will be 10%.

per quarter	- 1st year	40%
8% per QTR	- 2nd year	32%
5% per QTR	- 3rd year	20%
1% per QTR	- 4,5th year	8
		100%

Changes in customs duty rates

Gold

Serially numbered Gold Bars – Rs 300 (10 gr)

other forms of Gold – Rs 750 (10 gr)

Silver:

Rs 1500 per kg

platinum:

Rs 300 (per 10 gms)

Persons liable to pay excise duty:

1) Manufactures
2) who stores the goods in ware house
3) procurer in case of khandasari molasse.
4) In case of Jo work duty liable dy lies with ~~supplier~~ Job worker If the goods are sent to Job work principal to principal basis.

Goods and excisable goods:

Goods includes any material or substance, article which is capable being bought and sold for consider-ation and such goods, goods shall be deemeed markatable.

Manufacture:

Manufacture means bringing into existence new substance or article. Manufacture implies change, But every change not account to manufacture. It should emerge a new identifiable product which has destinctive name use and character.

Deemed manufacture:

It is a process of Repacking, Relabelling putting or Altering of MRP, on articles which covered under MRP valuation provisions. Simply Repacking not acount to manufacture it should be bulk Package to Retail package.

Basic conditions to levi of Excise Duty

1) Duty is on Goods.
2) Goods must be excisable
3) Goods must be manufactured
4) Manufacture should take place in India.

Duty is payable on following cases

1) Free replacement during warranty Period.
2) Goods supplied as free samples.
3) Goods used for captive consumption

India labaratories v/s CCE (2007)

→ xxx Assembly is manufacture only If machine can be removed without dismantling

Dutiablity of waste & scrap

waste and scrap not dutiable unless and until it is mentioned in the central excise tariff ~~do~~ Act 1985.

→ waste, Lubricating / transferring oil not dutiable

→ Spent sulphuric acid not goods

→ Empty drum used for packaging not dutiable.

→ waste arising due to dismantling of old machinery is not dutiable

→ waste arising due construction activity not dutiable.

plant Assembled at site : (not goods)

→ Storage Racks assembled at sites

→ plant assembled at site

→ weigh bridge erected at site

→ Turn key projects are not goods.

Process amount to manyfacture:

Some process amount to manufacture

→ Dairy products like Milk, cream, butter, Cheese, Labelling, Relabelling amount to manufacture i.e Bulk to Retail.

→ Incase of meat, fish Labelling, Relabelling Bulk pack to Retail amount to manufacture

→ organic chemicals Bulk pack to retail pack amount to manufacture.

→ Readymade garment bulk pack to retail pack amount omanufacture.

→ Cutting tiles, resizing amount to many facture

→ Sound Recording, video recording amound to manufacture.

→ Building body of Motor car chases

Amount to manufacture.

-> Repacking, Putting or Altering MRP is manufacture.

Manufacturer:

When Raw material supplier will be manufacturer:

-> Relationship between supplier and manufacturer agency basis.

-> When Raw material supplier engage persons to manufacture.

-> When there is bogus or dummy concern to is made to evade duty

-> There is no relationship principal to principal between Job worker and supplier.

Tranasaction value in Excise:

Basis of Assessable values

Duty is payable based on tranasaction value, if the goods are not sold to unrelated buyer, price is not sole conside ration valuation will be done asper Sec 4(1)(b).

valuation should satisfy this condition

→ Goods should be sold at time and place of removal.

→ Each removal will be treated as separate transaction

→ price is the sole consideration for sale

→ Buyer and seller are not related.

TV = AV.

1) price is Actually paid or payable
2) price is for the goods
3) price is paid before sale or after sale
4) It includes Advt, publiccity, marketing selling & distt exp which are in conne ction with sale

5) Amount excise duty other taxes are excluded while calculating Transaction value.

Normal transaction value:

Transaction value at which the greatest aggregate quantity of goods are sold. E.g

To A ~~Rs@90~~ 100 Unit @ Rs 10
B 80 Units @ Rs 20
C 60 Units @ Rs 30.

The Greatest aggregate Qty is 100

Valuation Method:

1. Specific duty:
It is payable based on certain Unit like weight, length, volume, thickness etc

Ciggarate - Length
Sugar - Per quintal
Marbles - Sq. Meter
TV - Inches (Screen Size)
Cement clinkers - Per tonne basis
Mollases - Per tonne basis
Maltes - 100 boxes / pack

2) % of Tarrift value:

Governament time to time fixes the tariff value for some goods based on that percentage is calculated and duty is payable.

3) Compound levy scheme:

It is an optional scheme, manufacturing has to pay specific duty for specified period on the basis of certain factors relevent to production like size of equippment employeed, production etc

this applicable to stainless steel patties and aluminium circles.

4) Duty based on production capacity

Duty will paid in advance based on budget production capacity after difference will paid / refunded in the assessment.

* PAN MASALA, GUTKA

Transaction value.

Add.

- Packing charges (Direct & indirect) (not Returnable packing)
- Design, engineering, Technical know how charges.
- Consultancy charges
- Loading & handling charges within factory
- After sale services (exclusive of Dealer margin)
- Pre delivery Inspection charges
- Advt, publicity, promotion paid by buyer
- Bought out item, supplied along with main product.

less:

- price Increase after removal
- Cost of Drawing supplied by buyer
- Cash Discount
- Commission to selling agent
- Interest on delayed payments
- Trade discount paid later Allowable
- Turnover discount allowable.

Transaction value - Related Person

interconnected undertaking:

If there is relationship of holding subsidiary it is called interconnected undertakings. If not sale price will be treated as AV = TV = SP

If they related person having relationship of holding subsidiary valuation will related buyer to unrelated buyer

$X \xrightarrow{\text{Related } \cancel{\text{Sales}}} Y \xrightarrow{\text{Unrelated}} Z$

Rs SP 100 120 ✓ AV = 120

$X \xrightarrow{\text{unrelated}}$ 100 = AV = TV (no relationship H&S)

Interest in each other Business

Both parties should have mutual interest

Relatives: (Persons)

only living i.e natural persons can be Relatives of other, thus a company, Partnership firm, body corporate, HUF, trust ~~not~~ cannot be relatives.

Brother — sister — father

→ Sole distributer cannot be related person unless they dont have holding & subsidiary relationship.

→ Goods sold Related person — Captive consumption:

Cost plus + 10%.

Partially sold to ~~un~~ unrelated and partially consumed for captive then — price of Goods ~~Good~~ sold to ~~un~~ unrelated person will be taken for captive consumption price.

→ Provision Assessment ordered by AC.

→ Remission (exemption) of duty on lost / Destroyed goods

→ Rule 21 CEA Remission duty can be granted

→ Good must have been lost or destroyed due to unavoidable reasons

→ Goods are claimed my manufactory unfit for sale.

In this case Application should be made to AC/DC before from the date of removal.

Duty Remission is allowed

→ Loss of molasses → due to rain water

→ loss due to fire

→ Remission despite of insurance claim

* → Cannot be remitted on theft

* → No remission goods are destroyed after clearance

→ Remission is applicable to final products only not intermediatory products.

Cenvat credit Dt 05.06.2011

On which Good input credit Available,

→ Input used in relation to manufacture,
→ Consumable oils (Lubricating oil, Greese, Colant oils)
→ Accessories, packing material, parents
→

Not Available.

→ LDO, HSD
→ Cement angles, channels
→ Input used for admin & Enabling Jobs, R&D

Capital goods: u/s 2(a) Cenvat Credit
Capital goods are elgible for cenvat rules, Capital goods are
Credit capital goods are
→ Tools, hand tools, knives etc falling under chapter 82
→ machinery covered under chapter 84
→ Electrical machinery covered under chapter 85
→ Measuring. checking machines under chapter 90
→ Grinding wheel under sub-heading 6804
→ Sub-heading 6805
→ Dumper or tippers under chapter 87

→ Capital goods could not sent outside more than 180 day, If it was not returned within 180 days cenvat credit has to reversed.

→ Capital goods are removed after use: capital goods are removed after use duty ~~cannpaid~~ that cann be reversed, input credit utilized on that can be reversed by 2.5% per quarter

In case computer are removed after use cenvat credit reversal as follows

1st year — 10% p.quarter — 40%
2nd year — 8% " " — 32%
3rd year — 5% " " — 20%
4&5th year — 1% " " — 8
100%

→ Cenvat credit on Capital goods allowed 1styear 50% — 2nd year 50%

~~2 Capital~~

CENVAT IS POOL OF DUTIES & TAXES

→ capital goods are manufactured within factory, 100% cenvat credit is available in the same (one year),

→ Cenvat credit on good loss due to fire, process & handling losses, natural causes, natural calamities allowable, except theft (pilfered) and storage on which goods stored.

→ Reversal of input credit in case obsolete goods are written off.

Input servic distributor:

often invoices & bills are received by service input in head office, while services are provides at depots, regional offices, sites in that case. head office can distribute credit of duty paid on such inputs and capital goods by issuing an invoice. Such office should registered with central excise and should submit returns

- → Input credit of Service tax and Excise duties are Interchangable credit can availed for manufacturers and Service provider
- → Basic duty can utilised for the payment SAH

Exports under Bond. (Removal of Good for exports without duty)

CT-1 Bond: Supplier to Manufacturer for exports. Merchant exporter have to execute bond CT-1 (valid till 1-3 months)

Running account bond (Account) will be maintained Merchant exporter. once the bond executed CT-1 account will be debited. Account is credit when the actually goods are exported.

B-1 Bonds: for exports with security/ Surety (Merchant exporter)

LUT: Letter of undertaking can be given it is valid till 12 months he has to show export proof. (Manufacturer)

*Exports should be made within 6 months from the date of bond executed otherwise duty will be payable.

Forms of Bonds

B-1: Dispatch of excisable goods without payment of duty. Merchant exporter

B-2: this Bond is for provisional assessment

B-5A: Rewarehousing or Removing goods warehouse to factory

B-8: Concession or nil rate of duty

B-11: Release of confiscated goods

B-17: provisional assessment EOU, EHTP/STP/ BTP units..

LUT: manufacturer exporter

EXCISE CONCESSION TO SSI

* Audit of SSI Units once in 2-5 years

SSI Units whose turnover is less 4 crores are eligible for the concession. If SSI Units doesnot avail cenvat on inputs turnover upto 150 lakhs is fully exempt.

→ who turnover is more than 4 crores in a previous (2006-07) financial year pay normal duty in 2007-08.

Slabs

upto 150 lakhs - fully exempted

150 lakhs to 400 lakhs - normal duty (Cenvat credit available)

Turnover calculation (150L/400L)

~~Add~~ Less:

→ Export to other than ~~Nepal Bhutan~~

→ Deemed export

→ Goods manufactured with other brand name & duty paid.

→ Intermediatory / captive consumption final product is eligible for SSI exemption

→ Job work amount to manufacture

Add:
→ Turnover of goods excempted under other notification to be included
→ Goods manufactured in rural area with other brand name included (Imp)
→ Exports to nepal Bhutan. (Imp)
→ Goods manufactured with others brand name i.e packing material (w.e.f. 1-4-10)

Filings
→ Quarterly Return following month by 10th
→ Quarterly payment by 15th / 16th of following month.
→ Audit of CAA 2-5 years once

In previous FY TURNOVER IS UPTO 400 Lakh SSI CAN AVAIL EXCEMPTION OF 150 Lakh

Imp TURNOVER IS MORE THAN 4 CRORES
NORMAL DUTY is PAYABLE.

4 Crores = Turnover
150 Lakh = threshold for excemption
To > 4 crores → no excemption
To ≤ 4 Crores → 150 Lakh excemption
To ≤ 4 crores say 3.80 crores
150 − will
~~400~~ 380 = 230 normal duty

CAPTIVE CONSUPTION

If the ~~goods~~ Intermeditery goods are used within factory called captive consumption.

→ Intermeditor goods used for exem-pted final product duty is payable ~~cons~~

No duty on captive consumption

→ Excemption if final product to cleared for Deemed exports

→ Excemption of final products is exported ~~to~~ or supplied to SEZ

→ Goods cleared to UN, WHO, ILO, UNDP

Duty Payable on Intermeditory Products

→ when final products is excempted from duty, Duty Payable on Interme-ditory product.

→ Intermediatory Product is transfered from one factory to another factory for captive consumption.

→ Goods cleared under Concessional rate of duty.

Valuation in case of captive consumption

→ Captive consumption related party

$\boxed{\text{cost plus + 10\%}}$

→ Valuation when no other rules appli-cable cost plus + 10%.

Cost Sheet

Less: → Taxes paid sales tax, vat, discounts.

→ Admin expenses not relating to manufactures.

→ Interest on finance charges.

→ Abnormal costs.

→ Income from unrelated party.

Add: → Packing cost direct & indirect

→ Inputs received free of cost

→ Depriciation / Amortization

Cost Sheet CAS-4

Statement of cost of production of ______ manufactured/to be manufactured during the period ______

Q1 Quantity of units produced

Q2 Quantity of units dispatched

S.NO	Particulars	Total cost	CPU
1	Material Consumed		
2	Direct wages		
3	works OH		
4	Quality control cost		
5	Direct exp		
6.	R&D Cost		
7.	Adm exp (manufacture)		
8	(Total 1-7)		
9)	Add: opening stock		
10:	Less: closing stock		
11:	Total (8+9-10)		
12	Less: credit of Scrap/misc income		
13:	Packing cost		
14:	Cost of production (11-12+13)		

15. Add: Input Recd free of cost

16. Add: Amortization / Depreciation

17. Cost of production (Captive Consumption)

18) Add: opening finished goods

19) Less: closing stock finished goods

20) Cost of production goods dispatched (17+18-19)

JOB WORK UNDER CENTRAL EXCISE

* Duty liability of Raw material supplier.

→ Raw material supplier sends goods for Job work to principal to principal basis

→ Relationship between Raw material supplier and Job work agency, can segment

→ Raw material supplier employees his own labour on Jobwork

→ Raw material supplier Creates dummy or bogus Job worker

→ where Raw material suppliers under -takes duty liability.

* Duty liability of Job worker

→ where Job worker send the finished goods to supplier by printing MRP on the goods includes Job charges.

If Job worker avails cenvat credit he is liable to pay duty, @% of of Job charges.

Valuation

→ when goods are sold at the factory gate of Job worker by principal manufacture: If the buyer and principal manufactures are not related selling price = Transaction value

→ when goods are covered under MRP valuation: Good are value u/s 4A

→ when the goods are sold by principal manufactures some other place: Goods are valued NORMAL TRANSACTION VALUE.

Interest payable: If differential duty is found to be payable, interest specified u/s 11AA or 11AB will be payable by assesse from the first day of the month of succeeding month for which amount is determined till date of payment thereof.

Interest is payable from the next month of clearance.

E.g: July'10 clearance is made, extra duty paid on Sept 10

Interest is ⇒ ~~Agu~~ Aug-10 – Sep-10

Case law Cadbury India v/s CCE.

Budget - Impact on duty:

February budget is presented in parliament, the rate may varies it will take time to approved by ~~ap~~ parliament & president of India. If the assesse know the changes in advance either he may stop or clear the goods. which may suitable to him.

Pre Budget Stock: Increase in Rate of Duty / Decrease in Rate of Duty will not applicable to pre Budget Stock. Rate applicable Date of manufacture.

Duty first time Introducing on a specific product pre Budget Stock is exempted from that.

→ NO RESTICTION ON CLEARANCE ON BUDGET DAY.

Departmental Excise Audit

Audit is conducted for excise Payment. it is called departmental Audit. Audit Manual will guide Audit parties. Audit parties headed by AC/DC.

Frequency of Audit:

Duty = Cash + Cenvat credit

1) Units pay > 3 crores – every year
2) Units pays 1-3 crores – once in 2 year
3) " " 50 lakh – 1 crore – once in 5 years
4) " " < 50 lakh – 10% of Units every year.

CERA Audit: central revenue Audit carried by CAG.

Special Audit (14AA of CEA):

Valuation Audit: whole calculation AV is correct ~~or~~ not ordered by ~~approp~~ chief commissioner.

Cenvat credit Audit: Utilisation of cenvat credit.

Such audit can ordered by AC/DC with prior approval chief commissioner -er. practising cost / charted accountant to appointed by commissioner. Report will be submitted within time limit. Audit fees paid commissioner.

Provisional Assessment: ~~to~~ An assessee unable to decide the value of goods then he can put application to AC/DC for provisional assessment. AC/DC may ask reason for not valuing good in written assessee give the reply

-based on that AC|DC order for provision
-al assessment.

Duty will be paid provisional basis
Assessee will execute a bond and surety.

Monthly Quarterly return will be
file marking provisionally assessed.

AC|DC required to pass order of final
assessment after getting relevent info
-rmation.

Self assessment: Assessment where assesse
himself do valuation on invoice based
and pay duty and files returns
regularly. except cigarates.

Central Excise Act 1944

Central Excise Tariff Act 1985

Customs Law 06.06.2011

CUSTOMS ACT 1962

CUSTOMS TARIFF ACT 1975

156 OF customs Act empowered parlia-
-ment to make rule

157 of customs Act empowered CBEC
to frame ~~the~~ i.e regulations.

COMMON ASPECTS IN CUSTOMS, CE, ST :

1. Governing board is CBEC only
2. Some rural areas all are taken care by one commissioner
3. Cenvat provision are same for all
4. Valuation rules are similar
5. Concept of related person is same
6. Doctrine of unjust enrichment applicable.
7. Raising demand show cause notice
7. Appealate tribunal is one only
8. Powers of officers are similar
9. Hierarchy of organisation is same.

Territorial water: 12 nautical miles from Base line, 200 nautical mile for Exclusive economic zones

Indian customs water: 24 nautical miles from Base line.

Customs Goods: Vessels, Air Craft, vehicles, Baggage, stores, currency and negotiable Instrument and any other movable property.

CVD or Additional customs duty:
u/s 3(1) CVD is payable on AV + Basic Customs duty. Inorder to protect domestic market from Imported goods, it is leviable. It is like excise duty. If the goods were ~~imported in~~ manufactured in India they had to pay central excise, so inorder give same level of field to domestic market CVD is payable.

Basic customs duty: It is payable on Assessable value
AV = CIF Landing cost + 1% landing charges

Special CVD:
u/s 3(5) special CVD is payable counter balance the saletax, vat on Imported goods.

Anti dumping duty:
u/s 9(A) of customs Act, is ~~payable~~ leviable leviable on imported goods, it at rate dumping margin or injury margin whichever lower.

Dumping margin = Normal value in export country - export price

injury margin = fair selling price in domestic Industry - Landed cost

Anti dumping is leviable where indian Industry produce like similar goods.

Safeguard duty (u/s 8A) & 8(B)
If imports from developing country exceeds 3%, safe guard duty can be levied. If imports are less 3%, safe guard duty can be levied, where imports from all developing countries imports from all developing countries Article in India exceeds 9%, such that Article in India exceeds 9%.

SAFE GUARD DUTY SPECIALLY FOR

CHINA

NCCD OF CUSTOMS:

National calamity and contigent duty. this will be leviable on panmasala, tobbacco, mobile phones, motor cars, two wheelers, Domestic crude oil.

Rate of foreign exchange: Rate of exchange applicable on which date of Bill of entry, Bill of export presented

Rate of duty: Bill of entry or Entry inward whichever is ~~earlier~~ later

→ incase warehouse goods date of removal

→ in case of postal goods date handover to chief post master.

* Sp. CVD: not payable when goods are valued und MRP.

Customs value

Includes

- → Commission and brokerage except buying commission
- → Cost of container not returnable
- → Cost of packing including labour, material
- → Accessories supplied along with main product
- → Engineering, design, sketch done elsewhere other than India
- → Royalty and licence fees directly paid in relation to imports/exports
- → Cost of transportation upto place of importation
- → Loading, unloading upto place of import
- → Cost of insurance (1.125% of FOB) FOB price
- → Freight (restricted to 20% of landing cost)
- → Value of goods supplied by buyer

Excludes

- → Technical know how charges
- – Buying commission
- → After importation charges
- → Duties & taxes in India
- → Interest on deferred payment
- → Demurrage charges payable to port trust.

CUSTOMS PROCEDURE

Custom Stations

Custom port:

Custom Airport:

Land customs Station:

Inland container Depot / CFS:

Coastal ports:

Transit: only on one vehicle

Transhipment: one vehicle to another vehicle.

IMPORT PROCEDURE

Vehicle - Good arrival - Bill report (12hrs)
Vessel - Aircraft - Bill manifest (30days)

Assessment

→ Provisional Assessment: where Importer unable to produce all documents for assessment custom officer provisionally collects duty from Importer Balance payable/refundable after getting supporting documents.

→ Nil rate Assessment: Assessment is made at nil rate called nil rate Assessment.

→ Self Assessment on Risk Management System

Under this system assesse self assesses goods pays the duty. he will file Bill of entry electronically Routed to RMS, RMS process the data and produce an electronic output. this will be based for clearance without any assessment but pays duty.

RMS :

This Scheme applicable to Accredited clients only :
→ who had imported goods at ~~more than~~ 10 crore in previous year, who has paid more than 1 crore in duty. A customs ~~and excise~~, Inlaset excise who has cleared more than 25 Bill of entries in previous year, paid excise at least one crore.

BAGGAGE, POST, COURIER

General free Allowance is allowable other than personal effects, Laptop. above 10 years for each passenger Rs 25000.00

UnAccompanied bagge not come into General free allowance.

→ foriguers can bring gift upto Rs 8000
→ pakistanies can bring gift upto Rs 6000
→ Jewellery can be ~~tax~~ allowed
Rs 10 000 (male passenger)
Rs 20 000 (Female passenger)
→ Gold which are serially numbered
10kg allowable
duty — Rs 300 per 10 grms
not serially numbered
duty — Rs 750 per 10 grms
→ Silver allowable 100 kgs
duty — Rs 1500 per kg
→ plantinum — Rs 300 — per 20 grams
→ Laptop is free (not dutiable) passanger above 18 years.

Rate of Duty applicable – Date

→ By Post – Imports: when on which date Postal authorities handover to customs officer

→ By Post – Exports: on which date Postal authorities handovers to customs dept

→ Accompanied Baggag: Date of Decla-ration

→ Unaccompanied baggage, Date of Decla-ration.

SERVICE TAX Dt 7.06.2011

As per Sec 66 of Finance Act 1994

Features of Servicetax

→ Service tax is a Indirect tax
→ It is a destination based consumption tax
→ No service tax on sale of goods
→ ~~&~~ No service tax vat paid
→ No service tax public authority
→ For service two parties are essential.

Taxable events

u/s 65 (105) Taxable service means any service provided, to be provided

66A Import service tax

67 service tax valuation

Taxable events

(i) entering into contract for service
(ii) provision for service.

No service tax on advance prior to 1-7-2010

Composition scheme, mat ~~&~~ not include prior to 7.7.09.

Value of Taxable Services

→ ST is payable on Gross of amount of service provided, to be provided & ST is payable on Advance also

→ Value Service + ST = Gross Amount

→ where consideration for services not wholly money, valuation can be made sc 67(1)(ii)

→ where consideration is entirely money valuation u/s 67(1)(i)

→ where consideration is not ascertainable valuation can be done u/s 67(1)(iii)

→ If the Gross Amount charged Including ST, It separately not shown.

Valuation, AV 79

Includes:

→ Gross amount inclusive of ST
→ No ST on goods / material sold

Excludes:

→ Discount, Incentives given to advt. agency
→ Reimbursement of Rent, loading charge to clear & forwarding agent
→ Vat / sales tax
→ Reimbursement of exp incurred behalf service receiver not includable

Excemption from ST

- Small service provider To < 10 lakhs.
- Exports of services
- Services to UN Agencies
- Services provided to SEZ
- Services provided by SEZ
- Excemption to goods & materials supplied while providing services.
- Excemption where service receives is liable to pay tax (Reverse ST)
- Services provided by RBI

GENERAL EXEMPTION TO SMALL SERPROVIDER

- whose turnover is less than 10 lakhs in previous financial year eligible for excemption
- Taxable Turnover includes Turnover of excempted. taxable services

Conditions for availing exemption

- Should not avail Cenvat credit on monthly basis and on capital goods
- GTA whose Turnover less than 10 lakhs excempted

→ Services provided by all premises taken together
→ Services provided by other brand name not eligible.
→ No registration upto turnover of 9 lakhs
→ In case of Reverse charge Receiver is liable to pay service tax, No excemption limit of 10 lakhs applicable.

Persons who are liable to pay ST

→ Service provider to Non-Resident
→ Insurance Comp
→ Mutual fund agent
→ Consignor / Consignee in case of freight
→ Body or Corporate for Sponsorship

Registration Form. ST-1
Reg certificate ST-2
Returns (Half yearly) ST-3

Payment of ST 5/6th of following month

Individual, proprietory, Partnership — Quaterly payment

Associated enterprises: Group of Companies formed as a company for Specific purpose

Returns:

Half yearly returns should file.
In form - ST-3
1st April - 30 sept
1st oct - 31 March

Assessee providing more than one services file two returns or more

Revised return: within 90 days of filing return
in case cenvat credit mistake can be rectified within 60 days.

Dt. 7.6.2011

CST

objectives of CST:

→ formulates the rules when sale & purchase take place during Interstate trade

→ To provide levy, collection and distribution of taxes Sale of goods Interstate

→ To declare some goods based on special Importance.

Definition of Sale sec 2(g)

Goods defined u/s 2(d)

Interstate sales sec 3

F – Stock transfer (Branch, consignment)

C – concessional duty

D – ~~Govt~~ sales to Govt Dept

H – Exports

A – Application for registration

B – certificate registration

G – Indemnity Bond when C form lost

I – certificate by SEZ Unit

J – certificate issued by foreign diplomatic mission and UN agencies

E_1/E_{II} – Certificates for sales in Transit

Goods under CST Act

→ No Tax on Immovable property
→ standing trees not goods, cut down timber is goods
→ Electricity, steam are goods
→ plant & machinery assembled at the ... not goods
→ News paper not goods
→ Stock, shares not goods
→ Money is not goods
→ Actionable claim not goods
– Lottery ticket not goods
→ Trade mark is goods
→ activation charges of sim not goods.
→ software is goods

Deemed sales

works contract, lease, hire purchase, Sales of goods to unincorporated association.

Liability of Director of pvt Ltd Co
In Case of liquidation

sec 18 provides that if a private Ltd company woundup, liability of Director of such pvt Ltd company is personal, If amount cannot be recovered from Liquidation, tax due can be recovered from personal property unless he prove there is no neglegency in his part.

Distinction between zero Sale and excempted Sale

Zero Sale	excempted Sale
1) Duty Payable on final product is Nil	1) Duty payable on final product is excempted.
2) Cenvat credit is available	2) Cenvat credit not available.

VAT

Tax Rates under Vat

- → 1%. on Gold & Silver, Semi precious stone
- → 12.5% RNR on other goods
- → 4%. on Delared goods, Capital goods
- → 20%. on diesel, motor spirit, Liquer, Cigaratte, lottery tickets.

Impact of vat on CST

- → Due to vat CST rate is reducing
- → present CST form C, D, E, F, G, H, I, J will continue.
- → There will no credit on CST Paid
- → If goods are sent on stock tran -sfer tax paid excess of 3%, Input credit available.

Problem in Page no = 422 Imp

Composition Scheme:

A Dealer whose turnover is Rs 5- below 50 lakhs he can choose composite scheme Tax is payable some percentage of Turnover.

→ He will not be entitled for input credit.

→ Dealer who deals Inter state sales not eligible for composite scheme.

No Input is available ***

→ No credit final product is exempted

→ output goods are transfered other states no input is available that portion only

→ final product is not sold given as free samples

→ Inputs lost, damaged, stolen (Reverse credit)

→ Purchase of automobiles (not for resale)

Notes.

→ If the goods are returned within six month excludable from CST

→ Export through canalysing agency excempted

→ Export through agent excempted.

$$\text{Turnover} = \frac{100 \times S}{100 + R}$$

$$\text{Tax payable} = \frac{S \times R}{100 + R}$$

CST - Inclusion in sales price

Add :→ Taxes & duties

→ CST includable

→ packing material & packing charges

→ Cost of freight

Less

→ Trade discount

→ Goods returned within six months.

→ Goods rejected (No time limit)

→ Cash discount.

→ packing material (containers) which are returnable

→ Erection expenses)

(Last)

The End